THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES

VOLUME 2 — 1934 — NUMBER 241

Washington, Tuesday, December 14, 1937

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

EXTENDING THE LIMITS OF THE CUSTOMS PORT OF ENTRY OF BUFFALO, NEW YORK

By virtue of and pursuant to the authority vested in me by the act of August 1, 1914, 38 Stat. 609, 623 (U. S. C., title 19, sec. 2), the limits of the customs port of entry of Buffalo, New York, in Customs Collection District No. 9 (Buffalo), are hereby extended to include (1) the city of Lackawanna, New York, (2) the east bank of the Niagara River between Buffalo and Tonawanda, New York, and (3) the cities of Tonawanda and North Tonawanda, New York.

This order shall become effective thirty days from this date.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 11, 1937.

[No. 7767]

[F. R. Doc. 37-3633; Filed, December 13, 1937; 10:53 a. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6124 OF MAY 2, 1933, WITHDRAWING PUBLIC LANDS

Colorado

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 6124 of May 2, 1933, withdrawing public lands in Colorado pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plats of the resurvey of said lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 11, 1937.

[No. 7768]

[F. R. Doc. 37-3634; Filed, December 13, 1937; 10:53 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49280]

COUNTERVAILING DUTIES—DRIED OR CANDIED FRUITS FROM AUSTRALIA

To Collectors of Customs and Others Concerned:

Treasury Decision 33726, dated September 8, 1913, declaring, pursuant to the provisions of section 6 of the Tariff Act of 1909, the payment of export bounties by the Government of Australia on fruits, dried (except currants and raisins), or candied, and on combed wool and tops, as modified by Treasury Decision 37264, dated July 14, 1917, is hereby revoked for the reason that the Department is officially advised that the laws of the Commonwealth of Australia, under which the export bounties in question were paid, are no longer in effect.

[SEAL]

JAMES H. MOYLE,
Commissioner of Customs.

Approved, December 7, 1937.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 37-3609; Filed, December 10, 1937; 3:58 p. m.]

Bureau of Internal Revenue.

[T. D. 4782]

INCOME TAX

REGULATIONS 94 AMENDED TO ACCORD WITH TITLE II OF THE REVENUE ACT OF 1937, RELATING TO FOREIGN PERSONAL HOLDING COMPANIES

To Collectors of Internal Revenue and Others Concerned:

Pursuant to the provisions of section 62 of the Revenue Act of 1936 and Supplement P, added to that Act by section 201 of Title II of the Revenue Act of 1937, approved August 26, 1937 (Public, No. 377, Seventy-fifth Congress, Chapter 815, first session), Regulations 94[1] are amended by adding a new chapter after Chapter XXXIII, designated Chapter XXXIV[2] and providing as follows:

"CHAPTER XXXIV

"Foreign Personal Holding Companies

SUPPLEMENT P—FOREIGN PERSONAL HOLDING COMPANIES

SEC. 202 (Revenue Act of 1937). *Effective date.*—Supplement P of Title I of the Revenue Act of 1936, added to such Act by section 201 of this Act, shall not apply to a taxable year (either of a shareholder or of a foreign corporation) ending on or before the date of the enactment of this Act; and in no case shall the stock ownership requirement provided in section 331 (a) (2) of such Supplement be satisfied unless a United States group (as therein defined) existed with respect to the corporation after the date of the enactment of this Act. If under section 338 or 339 of such Supplement the date on which a return is required to be filed occurs prior to November 1, 1937, the return shall be considered as filed on time if filed prior to December 1, 1937.

SEC. 201 (Revenue Act of 1937). *Inclusion in income of United States shareholders of income of foreign personal holding companies.*—The Revenue Act of 1936 is amended by adding after Supplement O of Title I a new Supplement to read as follows:

SUPPLEMENT P—FOREIGN PERSONAL HOLDING COMPANIES

SEC. 331. *Definition of foreign personal holding company.*—(a) *General Rule.*—For the purposes of this title and of Title IA the

[1] 1 F. R. 1802, 1867, 1947.

[2] T. D. 4777 approved November 19, 1937 (2 F. R. 2827 (DI)) amended Regulations 94 by renumbering existing Chapters XXXIV and XXXV as Chapters XXXV and XXXVI.

FEDERAL REGISTER

Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1 per month or $10 per year; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

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term "foreign personal holding company" means any foreign corporation if—

(1) *Gross income requirement.*—At least 60 per centum of its gross income (as defined in section 334 (a)) for the taxable year is foreign personal holding company income as defined in section 332; but if the corporation is a foreign personal holding company with respect to any taxable year, then, for each subsequent taxable year, the minimum percentage shall be 50 per centum in lieu of 60 per centum, until a taxable year during the whole of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 50 per centum of the gross income is foreign personal holding company income. For the purposes of this paragraph there shall be included in the gross income the amount includible therein as a dividend by reason of the application of section 334 (c) (2); and

(2) *Stock ownership requirement.*—At any time during the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter called "United States group."

(b) *Exceptions.*—The term "foreign personal holding company" does not include a corporation exempt from taxation under section 101.

"ART. 331–1. *Definition of foreign personal holding company.*—A foreign personal holding company is any foreign corporation (other than a corporation exempt from taxation under section 101) which for the taxable year meets (a) the gross income requirement specified in article 331–2, and (b) the stock ownership requirement specified in article 331–3. Both requirements must be satisfied and both must be met with respect to each taxable year.

"A foreign corporation which comes within the classification of a foreign personal holding company for any taxable year ending after the date of the enactment of the Revenue Act of 1937, namely, August 26, 1937, is not subject to taxation for such taxable year either under section 102 or section 351 of Title IA, as amended, but may be subject to taxation under either of those sections for other taxable years. The fact that a foreign corporation is a foreign personal holding company does not relieve the corporation from liability for the taxes imposed generally under section 231 upon foreign corporations, since such taxes apply regardless of the classification of the foreign corporation as a foreign personal holding company.

"ART. 331–2. *Gross income requirement.*—To meet the gross income requirement, it is necessary that either of the following percentages of gross income of the corporation for the taxable year (including the additions to gross income provided in section 334 (b)) be foreign personal holding company income as defined in section 332:

"(a) 60 percent or more; or

"(b) 50 percent or more if the foreign corporation has been classified as a foreign personal holding company for any taxable year ending after August 26, 1937, unless—

"(1) a taxable year has intervened since the last taxable year for which it was so classified, during no part of which the stock ownership requirement specified in section 331 (a) (2) exists; or

"(2) three consecutive years have intervened since the last taxable year for which it was so classified, during each of which its foreign personal holding company income was less than 50 percent of its gross income.

"In determining whether the foreign personal holding company income is equal to the required percentage of the total gross income, the determination must not be made upon the basis of gross receipts, since gross income is not synonymous with gross receipts. For a further discussion of what constitutes 'gross income,' see section 22 (a) and the regulations prescribed under that section.

"ART. 331–3. *Stock ownership requirement.*—To meet the stock ownership requirement, it is necessary that at some time in the taxable year and after August 26, 1937 more than 50 percent in value of the outstanding stock of the foreign corporation be owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter referred to as 'United States group.' For such purpose, the ownership of the stock must be determined as provided in section 333 and articles 333 (a)–1 to 333 (a)–7 and article 333 (b)–1.

"In the event of any change in the stock outstanding during the taxable year, whether in the number of shares or classes of stock, or whether in the ownership thereof, the conditions existing immediately prior and subsequent to each change must be taken into consideration, since a corporation comes within the classification if the statutory conditions with respect to stock ownership are present *at any time* during the taxable year and after August 26, 1937.

"In determining whether the statutory conditions with respect to stock ownership are present at any time during the taxable year, the phrase 'in value' shall, in the light of all the circumstances, be deemed the value of the corporate stock outstanding at such time (not including treasury stock). This value may be determined upon the basis of the company's net worth, earning and dividend paying capacity, appreciation of assets, together with such other factors as have a bearing upon the value of the stock. If a value of stock is used which is greatly at variance with that reflected by the corporate books, the evidence upon which such valuation is based should be filed with the return. In any case where there are two or more classes of stock outstanding, the total value of all the stock should be allocated among the different classes according to the relative value of each class therein.

SEC. 332. *Foreign personal holding company income.*—For the purposes of this title the term "foreign personal holding company income" means the portion, of the gross income determined for the purposes of section 331 (a) (1), which consists of:

(a) Dividends, interest, royalties, annuities.

(b) *Stock and Securities Transactions.*—Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(c) *Commodities transactions.*—Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(d) *Estates and trusts.*—Amounts includible in computing the net income of the corporation under Supplement E; and gains from the sale or other disposition of any interest in an estate or trust.

(e) *Personal service contracts.*—(1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

(f) *Use of corporation property by shareholder.*—Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

(g) *Rents.*—Rents, unless constituting 50 per centum or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property; but does not include amounts constituting foreign personal holding company income under subsection (f).

"ART. 332–1. *Foreign personal holding company income.*—For the purposes of Supplement P and these regulations the term 'foreign personal holding company income' means the portion of the gross income determined for the purposes of section 331 (a) (1) and article 331–2 which consists of the following:

"(1) *Dividends.*—The term 'dividends' means dividends as defined in section 115 (a) of the Revenue Act of 1936 and includes amounts required to be included in gross income under section 334 (b). It does not include stock dividends (to the extent they do not constitute income to the shareholders within the meaning of the Sixteenth Amendment to the Constitution), liquidating dividends, or other capital distributions referred to in section 115 (c), as amended, and section 115 (d).

"(2) *Interest.*—The terms 'interest' means any amounts, includible in gross income, received for the use of money loaned.

"(3) *Royalties.*—The term 'royalties' includes amounts, received for the privilege of using patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property. It does not include rents, nor overriding royalties received by an operating company. As used in this paragraph the term 'overriding royalties' means amounts received from the sublessee by the

operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid.

"(4) *Annuities.*—The term 'annuities' refers only to annuities to the extent includible in the computation of gross income. (See section 22 (b) (2).)

"(5) *Gains from the sale or exchange of stock or securities.*—The term 'gains from the sale or exchange of stock or securities' as used in section 332 (b) and these regulations applies to all gains (including gains from liquidating dividends and other distributions from capital) from the sale or exchange of stock or securities includible in gross income. The term 'stock or securities' includes shares or certificates of stock, or interest in any corporation (including any joint-stock company, insurance company, association, or other organization classified as a corporation by the Act), certificates of interest or participation in any profit-sharing agreement, or in any oil, gas, or other mineral royalty, or lease, collateral trust certificates, voting trust certificates, stock rights or warrants, bonds, debentures, certificates of indebtedness, notes, car trust certificates, bills of exchange, obligations issued by or on behalf of a Government, State, territory, or political subdivision thereof, etc. In the case of 'regular dealers in stock or securities' the term does not include gains derived from the sale or exchange of stock or securities made in the normal course of business. The term 'regular dealer in stock or securities' means corporations with an established place of business regularly engaged in the purchase of stock or securities and their resale to customers, but such corporations are not dealers with respect to stock or securities held for speculation or investment.

"(6) *Gains from futures transactions in commodities.*—Gains from futures transactions in commodities include gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange, but do not include gains from cash transactions or gains by a producer, processor, merchant, or handler of the commodity, which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others. In general, foreign personal holding company income includes gains on futures contracts which are speculative. Futures contracts representing true hedges against price fluctuations in spot goods are not speculative transactions, though not concurrent with spot transactions. Futures contracts which are not hedges against spot transactions are speculative unless they are hedges against concurrent futures or forward sales or purchases.

"(7) *Income from estates and trusts.*—The income from estates and trusts which is to be included in foreign personal holding company income consists of the income from estates and trusts which is required to be included in the gross income of a corporation under sections 161 to 169, together with the gains derived by the corporation from the sale or other disposition of any interest in an estate or trust.

"(8) *Amounts received under personal service contracts.*—Amounts includible in foreign personal holding company income as amounts received under personal service contracts consist of amounts received pursuant to a contract under which the corporation is to furnish personal services, and amounts received from a sale or other disposition of such a contract, if—

"(*a*) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description in the contract); and

"(*b*) at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description), as the one to perform such services. For this purpose the stock ownership must be determined as provided in section 333 and articles 333 (a)–1 to 333 (a)–7 and article 333 (b)–1.

The application of section 332 (e) may be illustrated by the following examples:

"*Example* (1).—A, whose profession is that of an actor, owns all of the outstanding capital stock of the M Corporation. The M Corporation entered into a contract with A under which A was to perform personal services for the person or persons which the M Corporation might designate, in consideration of which A was to receive $10,000 a year from the M Corporation. The M Corporation entered into a contract with the O Corporation in which A was designated to perform personal services for the O Corporation in consideration of which the O Corporation was to pay the M Corporation $500,000 a year. The $500,000 received by the M Corporation from the O Corporation constitutes foreign personal holding company income.

"*Example* (2).—The N Corporation, the entire outstanding capital stock of which is owned by four individuals, is engaged in engineering. The N Corporation entered into a contract with the O Corporation to perform engineering services for the O Corporation, in consideration of which the O Corporation was to pay the N Corporation $50,000. The individual who was to perform the services was not designated (by name or by description) in the contract and no one but the N Corporation had the right to designate (by name or by description) such individual. The $50,000 received by the N Corporation from the O Corporation does not constitute foreign personal holding company income.

"(9) *Compensation for use of property.*—The compensation for the use of, or the right to use, property of the corporation which is to be included in foreign personal holding company income consists of amounts received as compensation (however designated and from whomsoever received) for the use of, or the right to use, property of the corporation in any case in which, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual entitled to the use of the property, whether such right is obtained directly from the corporation or by means of a sublease or other arrangement. The property may consist of a yacht, a city residence, a country house, or any other kind of property. See sections 331 (a) (2) and 333 and articles 333 (a)–1 to 333 (a)–7 and article 333 (b)–1.

"(10) *Rents.*—The rents which are to be included in foreign personal holding company income consist of compensation, however designated, including charter fees, etc., for the use of, or the right to use, real property, or any other kind of property, but do not include amounts constituting foreign personal holding company income under section 332 (f) and paragraph (9) of this article. However, rents do not constitute foreign personal holding company income if constituting 50 percent or more of the gross income of the corporation.

SEC. 333. *Stock ownership.*—(a) *Constructive Ownership*—For the purpose of determining whether a foreign corporation is a foreign personal holding company, insofar as such determination is based on stock ownership under section 331 (a) (2), section 332 (e), or section 332 (f)—

(1) *Stock not owned by individual.*—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) *Family and partnership ownership.*—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) *Options.*—If any person has an option to acquire stock such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(4) *Application of family-partnership and option rules.*—Paragraphs (2) and (3) shall be applied—

(A) For the purposes of the stock ownership requirement provided in section 331 (a) (2), if, but only if, the effect is to make the corporation a foreign personal holding company;

(B) For the purposes of section 332 (e) (relating to personal service contracts), or of section 332 (f) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

(5) *Constructive ownership as actual ownership.*—Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

(6) *Option rule in lieu of family and partnership rule.*—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

"ART. 333 (a)–1. *Stock ownership.*—For the purpose of determining whether—

"(*a*) a foreign corporation is a foreign personal holding company, insofar as such determination is based on the stock ownership requirement specified in section 331 (a) (2) and article 331–3, or

"(*b*) amounts received under a personal service contract or from the sale of such a contract constitute foreign personal holding company income insofar as such determination is based on the stock ownership requirement specified in section 332 (e) and paragraph (8) of article 332–1, or

"(*c*) compensation for the use of property constitutes foreign personal holding company income insofar as such determination is based on the stock ownership requirement specified in section 332 (f) and paragraph (9) of article 332–1,

stock owned by an individual includes stock constructively owned by him as provided in section 333. For such purpose constructive ownership of stock shall be determined and applied in accordance with the rules provided in section 333 and articles 333 (a)–2 to 333 (a)–7 and article 333 (b)–1. All forms and classes of stock, however denominated, which represent the interests of shareholders, members, or beneficiaries in the corporation shall be taken into consideration.

"ART. 333 (a)–2. *Stock not owned by individual.*—In determining the ownership of stock for any of the purposes set forth in article 333 (a)–1, stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. For example, if A and B, two individuals, are the exclusive and equal beneficiaries of a trust or estate, and if such trust or estate owns the entire capital stock of the M Corporation, and if the M Corporation in turn owns the entire capital stock of the N Corporation, then the stock of both the M Corporation and the N Corporation shall be considered as being owned equally by A and B as the individuals owning the beneficial interest therein. See also article 333 (a)–6.

"ART. 333 (a)–3. *Family and partnership ownership.*—In determining the ownership of stock for any of the purposes set forth in article 333 (a)–1, an individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of such determination the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"The application of the family and partnership rule in determining the ownership of stock for the purpose set forth in (a) of article 333 (a)–1 is illustrated by the following example:

"*Example.*—The M Corporation at some time during the taxable year had 1,800 shares of outstanding stock, 450 of which were held by various individuals having no relationship to one another and none of whom were partners, and the remaining 1,350 were held by 51 shareholders as follows:

Relationships	Shares	Shares	Shares	Shares	Shares
An individual	A 100	B 20	C 20	D 20	E 20
His father	AF 10	BF 10	CF 10	DF 10	EF 10
His wife	AW 10	BW 40	CW 40	DW 40	EW 40
His brother	AB 10	BB 10	CB 10	DB 10	EB 10
His son	AS 10	BS 40	CS 40	DS 40	ES 40
His daughter by former marriage (son's half-sister)	ASHS 10	BSHS 40	CSHS 40	DSHS 40	ESHS 40
His brother's wife	ABW 10	BBW 10	CBW 10	DBW 160	EBW 10
His wife's father	AWF 10	BWF 10	CWF 110	DWF 10	EWF 10
His wife's brother	AWB 10	BWB 10	CWB 10	DWB 10	EWB 10
His wife's brother's wife	AWBW 10	BWBW 10	CWBW 10	DWBW 10	EWBW 110
Individual's partner	AP 10				

By applying the statutory rule provided in section 333 (a) (2) five individuals own more than 50 percent of the outstanding stock as follows:

A (including AF, AW, AB, AS, ASHS, AP)	160
B (including BF, BW, BB, BS, BSHS)	160
CW (including C, CS, CWF, CWB)	220
DB (including D, DF, DBW)	200
EWB (including EW, EWF, EWBW)	170
Total, or more than 50 percent	910

Individual A represents the obvious case where the head of the family owns the bulk of the family stock and naturally is the head of the group. A's partner owns 10 shares of the stock. Individual B represents the case where he is still head of the group because of the ownership of stock by his immediate family. Individuals C and D represent cases where the individuals fall in groups headed in C's case by his wife and in D's case by his brother because of the preponderance of holdings on the part of relatives by marriage. Individual E represents the case where the preponderant holdings of others eliminate that individual from the group.

"The method of applying the family and partnership rule as illustrated in the foregoing example also applies in determining the ownership of stock for the purposes stated in (b) and (c) of article 333 (a)–1.

"ART. 333 (a)–4. *Options.*—In determining the ownership of stock for any of the purposes set forth in article 333 (a)–1, if any person has an option to acquire stock, such stock may be considered as owned by such person. The term 'option' as used in this article includes an option to acquire such an option and each one of a series of such options, so that the person who has an option on an option to acquire stock may be considered as the owner of the stock.

"ART. 333 (a)–5. *Application of family-partnership and option rules.*—The family and partnership rule provided in section 333 (a) (2) and article 333 (a)–3 and the option rule provided in section 333 (a) (3) and article 333 (a)–4 shall be applied—

"(*a*) for the purpose stated in (a) of article 333 (a)–1, if, but only if, the effect of such application is to make the foreign corporation a foreign personal holding company, or

"(*b*) for the purpose stated in (b) of article 333 (a)–1, if, but only if, the effect of such application is to make the amounts received under a personal service contract or from the sale of such a contract foreign personal holding company income, or

"(*c*) for the purpose stated in (c) of article 333 (a)–1, if, but only if, the effect of such application is to make the compensation for the use of property foreign personal holding company income.

The family and partnership rule and the option rule must be applied independently for each of the purposes stated in article 333 (a)–1.

"ART. 333 (a)–6. *Constructive ownership as actual ownership.*—In determining the ownership of stock for any of the purposes set forth in article 333 (a)–1—

"(*a*) stock constructively owned by a person by reason of the application of the rule provided in section 333 (a) (1) relating to stock not owned by an individual (see article 333 (a)–2) shall be considered as actually owned by such person for the purpose of again applying such rule or of applying the family and partnership rule provided in section 333 (a) (2) (see article 333 (a)–3) in order to make another person the constructive owner of such stock, and

"(*b*) stock constructively owned by a person by reason of the application of the option rule provided in section 333 (a) (3) (see article 333 (a)–4) shall be considered as actually owned by such person for the purpose of applying either the

rule provided in section 333 (a) (1), relating to stock not owned by an individual, or the family and partnership rule provided in section 333 (a) (2) in order to make another person the constructive owner of such stock, but

"(c) stock constructively owned by an individual by reason of the application of the family and partnership rule provided in section 333 (a) (2) shall not be considered as actually owned by such individual for the purpose of again applying such rule in order to make another individual the constructive owner of such stock.

"The application of this article may be illustrated by the following examples:

"*Example (1).*—A is a United States citizen, whose wife, AW, owns all of the stock of the M Corporation, which in turn owns all the stock of the O Corporation. The O Corporation in turn owns all the stock in the P Corporation.

"Under the rule provided in section 333 (a) (1), relating to stock not owned by an individual, the stock in the P Corporation owned by the O Corporation is considered to be owned constructively by the M Corporation, the sole shareholder of the O Corporation. Such constructive ownership of the stock by the M Corporation is considered as actual ownership for the purpose of again applying such rule in order to make AW, the sole shareholder of the M Corporation, the constructive owner of the stock of the P Corporation. Similarly, the constructive ownership of the stock by AW is considered as actual ownership for the purpose of applying the family and partnership rule provided in section 333 (a) (2) in order to make A the constructive owner of the stock of the P Corporation, if such application is necessary for any of the purposes set forth in article 333 (a)–1. But the stock thus constructively owned by A may not be considered as actual ownership for the purpose of again applying the family and partnership rule in order to make another member of A's family, for example A's father, the constructive owner of the stock of the P Corporation.

"*Example (2).*—B is a United States citizen who owns all the stock of the R Corporation which has an option to acquire all the stock of the S Corporation, a foreign corporation, owned by C, an individual, who is not related to B.

"Under the option rule provided in section 333 (a) (3) the R Corporation may be considered as owning constructively the stock of the S Corporation owned by C. Such constructive ownership of the stock by the R Corporation is considered as actual ownership for the purpose of applying the rule provided in section 333 (a) (1), relating to stock not owned by an individual, in order to make B, the sole shareholder of the R Corporation, the constructive owner of the stock of the S Corporation. The stock thus constructively owned by B by reason of the application of the rule provided in section 333 (a) (1) likewise is considered as actual ownership for the purpose, if necessary, of applying the family and partnership rule provided in section 333 (a) (2), in order to make another member of B's family, for example, B's wife, BW, the constructive owner of the stock of the S Corporation. However, the family and partnership rule could not again be applied so as to make still another individual the constructive owner of the stock of the S Corporation, that is, the stock constructively owned by BW could not be considered as actually owned by her in order to make BW's father the constructive owner of such stock by a second application of the family and partnership rule.

"ART. 333 (a)–7. *Option rule in lieu of family and partnership rule.*—If, in determining the ownership of stock for any of the purposes set forth in article 333 (a)–1, stock may be considered as constructively owned by an individual by an application of both the family-partnership rule provided in section 333 (a) (2) (see article 333 (a)–3) and the option rule provided in section 333 (a) (3) (see article 333 (a)–4) such stock shall be considered as owned constructively by the individual by reason of the application of the option rule.

"The application of this article may be illustrated by the following example:

"*Example.*—Two brothers, A and B, each own 10 percent of the stock of the M Corporation, a foreign corporation, and A's wife, AW, also owns 10 percent of the stock of such corporation. AW's husband, A, has an option to acquire the stock owned by her at any time. It becomes necessary, for one of the purposes stated in article 333 (a)–1, to determine the stock ownership of B in the M Corporation.

"If the family and partnership rule were the only rule that applied in the case, B would be considered, under that rule, as owning 20 percent of the stock of the M Corporation namely, his own stock plus the stock owned by his brother. In that event, B could not be considered as owning the stock held by AW since (1) AW is not a member of B's family and (2) the constructive ownership of such stock by A through the application of the family and partnership rule in his case is not considered as actual ownership so as to make B the constructive owner by a second application of the same rule with respect to the ownership of the stock. (See article 333 (a)–6.)

"However, there is more than the family and partnership rule involved in this example. As the holder of an option upon the stock, A may be considered the constructive owner of his wife's stock by the application of the option rule and without reference to the family relationship between A and AW. If A is considered as owning the stock of his wife by application of the option rule, then under article 333 (a)–6, such constructive ownership by A is regarded as actual ownership for the purpose of applying the family and partnership rule so as to make another member of A's family, for example, B, the constructive owner of the stock. Hence, since A may be considered as owning his wife's stock by applying both the family-partnership rule and the option rule, the provisions of section 333 (a) (6) apply and accordingly A must be considered the constructive owner of his wife's stock under the option rule rather than the family-partnership rule. B thus becomes the constructive owner of 30 percent of the stock of the M Corporation, namely, his own 10 percent, A's 10 percent, and AW's 10 percent constructively owned by A as the holder of an option on the stock.

[SEC. 333. *Stock ownership.*]

(b) Convertible Securities.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

(1) For the purpose of the stock ownership requirement provided in section 331 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a foreign personal holding company;

(2) For the purpose of section 332 (e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding company income; and

(3) For the purpose of section 332 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.

"ART. 333 (b)–1. *Convertible securities.*—Under section 333 (b), outstanding securities of a foreign corporation, such as bonds, debentures or other corporate obligations, convertible into stock of the corporation (whether or not convertible during the taxable year) shall be considered as outstanding stock of the corporation for the purpose of the stock ownership requirement provided in section 331 (a) (2), but only if the effect of such consideration is to make the corporation a foreign personal holding company. Such convertible securities shall be considered as outstanding stock for the purpose of section 332 (e), relating to amounts received under personal service contracts, or of section 332 (f), relating to compensation for the use of property, but only if the effect of such consideration is to make the amounts therein referred to includible under such sections as foreign personal

holding company income. The consideration of convertible securities as outstanding stock is subject to the exception that, if some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be considered as outstanding stock although the others are not so considered, but no convertible securities shall be considered as outstanding stock unless all outstanding securities having a prior conversion date are also so considered. For example, if outstanding securities are convertible in 1937, 1938, and 1939, those convertible in 1937 can be properly considered as outstanding stock without so considering those convertible in 1938 or 1939, and those convertible in 1937 and 1938 can be properly considered as outstanding stock without so considering those convertible in 1939. However, the securities convertible in 1938 could not be properly considered as outstanding stock without so considering those convertible in 1937 and the securities convertible in 1939 could not be properly considered as outstanding stock without so considering those convertible in 1937 and 1938.

SEC. 334. *Gross income of foreign personal holding companies.*—(a) *General rule.*—As used in this Supplement with respect to a foreign corporation the term "gross income" means gross income computed (without regard to the provisions of Supplement I) as if the foreign corporation were a domestic corporation.

(b) *Additions to gross income.*—In the case of a foreign personal holding company (whether or not a United States group, as defined in section 331 (a) (2), existed with respect to such company on the last day of its taxable year) which was a shareholder in another foreign personal holding company on the day in the taxable year of the second company which was the last day on which a United States group existed with respect to the second company, there shall be included, as a dividend, in the gross income of the first company, for the taxable year in which or with which the taxable year of the second company ends, the amount the first company would have received as a dividend if on such last day there had been distributed by the second company, and received by the shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the second company for its taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) *Application of subsection (b).*—The rule provided in subsection (b)—

(1) shall be applied in the case of a foreign personal holding company for the purpose of determining its undistributed Supplement P net income which, or a part of which, is to be included in the gross income of its shareholders, whether United States shareholders or other foreign personal holding companies;

(2) shall be applied in the case of every foreign corporation with respect to which a United States group exists on some day of its taxable year, for the purpose of determining whether such corporation meets the gross income requirements of section 331 (a) (1).

"ART. 334–1. *Gross income in general for purposes of Supplement P.*—For all purposes of Supplement P and Chapter XXXIV of these regulations, the gross income of a foreign corporation shall be computed as if the corporation were a domestic corporation and without regard to the provisions of Supplement I and Chapter XXVII of these regulations, relating to the taxation of foreign corporations generally. Hence, for such purposes, the gross income includes income from all sources, whether within or without the United States, which is not excluded from gross income by section 22 (b) and the regulations pertaining to that section. The gross income thus includes the interest on bonds, notes, and certificates of indebtedness of the United States, even though owned beneficially by a foreign corporation not engaged in trade or business in the United States, and even though such interest otherwise would come within the exemption provided for in section 3 of the Fourth Liberty Bond Act of July 9, 1918, as amended by section 4 of the Victory Liberty Loan Act of March 3, 1919.

"ART. 334–2. *Additions to gross income for purposes of Supplement P.*—If, for any taxable year—

"(*a*) a foreign corporation meets the stock ownership requirement specified in article 331–3, regardless of whatever day in its taxable year is the last day on which the required United States group exists, and

"(*b*) such foreign corporation is a shareholder in a foreign personal holding company on any day of a taxable year of the second company which ends with or within the taxable year of the first company and such day is the last day in the taxable year of the second company on which the United States group exists with respect to the second company,

then for the purpose of—

"(*c*) determining whether the first company meets the gross income requirement specified in article 331–2, so as to come within the classification of a foreign personal holding company, and

"(*d*) determining the undistributed Supplement P net income of the first company which (in the event the first company is a foreign personal holding company) is to be included, in whole or in part, in the gross income of its shareholders, whether United States shareholders or other foreign personal holding companies,

there shall be included as a dividend in the gross income of the first company for the taxable year in which or with which the taxable year of the second company ends, the amount the first company would have received as a dividend, if on the last day referred to in (*b*) there had been distributed by the second company, and received by the shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the second company for its taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year. The foregoing rules apply to any chain of foreign corporations regardless of the number of corporations included in the chain.

"The application of this article may be illustrated by the following examples:

"*Example (1).*—The X Corporation is a foreign corporation whose stock is owned by A, a United States citizen. The X Corporation owns the entire stock of the Y Corporation, another foreign corporation. The taxable year of the X Corporation is the calendar year and the taxable year of the Y Corporation is the fiscal year ending June 30. For the fiscal year ending June 30, 1938, more than the required percentage of the Y Corporation's gross income consists of foreign personal holding company income and no part of the earnings for such year is distributed as dividends. On the basis of these facts the Y Corporation is a foreign personal holding company for the fiscal year ending June 30, 1938. The X Corporation meets the stock ownership requirement and constitutes a foreign personal holding company for 1938, if it also meets the gross income requirement.

"For the purpose of determining whether the X Corporation meets the gross income requirement, the entire undistributed Supplement P net income of the Y Corporation for the fiscal year ending June 30, 1938, must be included as a dividend in the gross income of the X Corporation for 1938, since—

"(*a*) the X Corporation is a shareholder in the Y Corporation on a day (June 30, 1938) in the taxable year of the Y Corporation ending with or within the taxable year of the X Corporation, which day is the last day in the taxable year of the Y Corporation on which the United States group required with respect to the Y Corporation exists,

"(*b*) such last day is also the end of the Y Corporation's taxable year so that the portion of the taxable year of the Y Corporation up to and including such last day is equal to 100 percent of the taxable year of the Y Corporation, and, therefore, the portion of the undistributed Supplement P net income of the Y Corporation includible in the gross income of its shareholders is likewise equal to 100 percent, and

"(*c*) the X Corporation being the sole shareholder of the Y Corporation must include such portion in its gross income for 1938, the taxable year in which or with which the taxable year of the Y Corporation ends.

"If, after the inclusion of the presumptive dividend in its gross income, the X Corporation is a foreign personal holding company for 1938, then the undistributed Supplement P

net income of the Y Corporation must also be included as a dividend in the gross income of the X Corporation in determining its undistributed Supplement P net income which is to be included in the gross income of A, the sole shareholder in the X Corporation. On the other hand, if, after including such presumptive dividend, the X Corporation does not constitute a foreign personal holding company, the undistributed Supplement P net income of the Y Corporation is not includible in the gross income of the X Corporation for any purpose other than determining whether the X Corporation is a foreign personal holding company.

"*Example* (2).—The X Corporation referred to in Example (1) sells the stock in the Y Corporation to other interests on September 30, 1938, so that after that date no United States group exists with respect to the Y Corporation. For the fiscal year ending June 30, 1939, more than the required percentage of the gross income of the Y Corporation consists of foreign personal holding company income. The net income of the Y Corporation for such fiscal year amounts to $1,000,000.00 of which $900,000.00 is distributed in dividends, after September 30, 1938. The undistributed Supplement P net income of the Y Corporation for such fiscal year amounts to $100,000.00. Upon the basis of these facts the Y Corporation is a foreign personal holding company for the fiscal year ending June 30, 1939, since at one time in such fiscal year, or from July 1, to and including September 30, 1938, it meets the stock ownership requirement, and the gross income requirement is also satisfied.

"In determining whether the X Corporation constitutes a foreign personal holding company for 1939, a portion of the undistributed Supplement P net income of the Y Corporation for the fiscal year ending June 30, 1939 (3/12 of $100,000.00, or $25,000.00), must be included as a dividend in the gross income of the X Corporation, since—

"(*a*) the X Corporation is a shareholder in the Y Corporation on September 30, 1938, or on a day in the taxable year of the Y Corporation ending with or within the taxable year of the X Corporation, which day is the last day in the Y Corporation's taxable year on which the United States group required with respect to the Y Corporation exists,

"(*b*) the portion of the taxable year of the Y Corporation up to and including such day is 3/12 of the entire taxable year of the Y Corporation and, therefore, the portion of the undistributed Supplement P net income of the Y Corporation includible in the gross income of its shareholders also is equal to 3/12, and

"(*c*) the X Corporation, being the sole shareholder of the Y Corporation at the time the United States group with respect to the Y Corporation last exists, must include all of such portion in its gross income for 1939, the taxable year of the X Corporation in which or with which the taxable year of the Y Corporation ends.

"It is to be observed that 3/12 of the undistributed Supplement P net income of the Y Corporation for the entire taxable year and not the earnings realized by the Y Corporation up to and including September 30, 1938, the last day on which the United States group with respect to the Y Corporation exists, must be included in the gross income of the X Corporation.

"*Example* (3).—The X Corporation referred to in Example (1) sells the stock in the Y Corporation to other interests on September 30, 1938, so that after that date a different United States group exists with respect to the Y Corporation. Assuming that the Y Corporation is a foreign personal holding company for the fiscal year ending June 30, 1939, no part of the undistributed Supplement P net income of the Y Corporation for such fiscal year would, in this instance, be includible in the gross income of the X Corporation for the year 1939, in determining whether the X Corporation is a foreign personal holding company for that year. In such case, the undistributed Supplement P net income of the Y Corporation is includible in the gross income of the other foreign personal holding companies, if any, and of the United States shareholders who are shareholders in the Y Corporation the day after September 30, 1938, which is the last day in the taxable year of the Y Corporation on which the United States group with respect to the Y Corporation exists.

"If, however, the X Corporation sells 90 percent of its stock in the Y Corporation and thus is a minority shareholder in the Y Corporation on the last day of the taxable year of the Y Corporation on which the United States group with respect to the Y Corporation exists, the portion of the undistributed Supplement P net income allocable to the minority interest of the X Corporation would be includible in the gross income of the X Corporation, even though on such last day the United States group is not the same with respect to both corporations.

"*Example* (4).—If the Y Corporation in Example (1) owns all of the stock of the Z Corporation, another foreign corporation, there would be a chain of three foreign corporations. In such case, assuming that the Z Corporation is a foreign personal holding company for a taxable year ending with or within the taxable year of the Y Corporation, the undistributed Supplement P net income of the Z Corporation would be included in the gross income of the Y Corporation for the purpose of determining whether the Y Corporation comes within the classification of a foreign personal holding company. If, after the inclusion of such presumptive dividend, the Y Corporation is a foreign personal holding company, the undistributed Supplement P net income of the Z Corporation would be included in the gross income of the Y Corporation in determining the undistributed Supplement P net income of the Y Corporation which is includible in the gross income of its shareholder, the X Corporation. The same process would be repeated with respect to determining whether the X Corporation is a foreign personal holding company and in determining its undistributed Supplement P net income. If all three corporations are foreign personal holding companies, the undistributed Supplement P net income of each would, in this manner, be reflected as a dividend in the gross income of A, the ultimate beneficial shareholder of the chain.

"In the event that after the inclusion of the undistributed Supplement P net income of the Z Corporation in the gross income of the Y Corporation, the Y Corporation is not a foreign personal holding company, then no part of the income of either the Z Corporation or the Y Corporation would be includible in the gross income of the X Corporation. In that event, whether the X Corporation is a foreign personal holding company, and its undistributed Supplement P net income, would be determined independently of the income of the Y Corporation and the Z Corporation.

SEC. 335. *Undistributed supplement P net income.*—For the purposes of this title the term "undistributed Supplement P net income" means the Supplement P net income (as defined in section 336) minus the amount of the dividends paid credit provided in section 27, computed without the benefit of subsection (b) thereof (relating to the dividend carry-over).

SEC. 336. *Supplement P net income.*—For the purposes of this title the term "Supplement P net income" means the net income with the following adjustments:

(a) Additional Deductions.—There shall be allowed as deductions—

(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 351 (either before or after its amendment by the Revenue Act of 1937), or a section of a prior income-tax law corresponding to either of such sections.

(2) In lieu of the deduction allowed by section 23 (q), contributions or gifts made within the taxable year to or for the use of donees described in section 23 (q) for the purposes therein specified, to an amount which does not exceed 15 per centum of the company's net income, computed without the benefit of this paragraph and section 23 (q), and without the deduction of the amount disallowed under subsection (b) of this section, and without the inclusion in gross income of the amounts includible therein as dividends by reason of the application of the provisions of section 334 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder).

(b) *Deductions not allowed.*—

(1) *Taxes and pension trusts.*—The deductions provided in section 23 (d), relating to taxes of a shareholder paid by the corporation, and in section 23 (p), relating to pension trusts, shall not be allowed.

(2) *Expenses and depreciation.*—The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the company, shall be allowed only in an amount equal to the rent or other compensation received for the use or right to use the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

(A) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(B) That the property was held in the course of a business carried on bona fide for profit; and

(C) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

"ART. 336–1. *Supplement P net income.*—The term 'Supplement P net income' means the gross income as defined in section 334 less the deductions provided in section 23 of the Revenue Act of 1936 (computed without regard to the provisions of Supplement I of the Revenue Act of 1936), subject to the qualifications, limitations, and exceptions provided in section 336. In addition to the qualifications, limitations, and exceptions provided in section 336 (a) and section 336 (b) (1), under section 336 (b) (2) the aggregate of the deductions allowed under section 23 (a) of the Revenue Act of 1936, relating to expenses, and section 23 (l) of the Revenue Act of 1936, relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the company shall be allowed only in an amount equal to the rent or other compensation received for the use of, or right to use, the property, unless it is established to the satisfaction of the Commissioner:

"(1) That the rent or other compensation received was the highest obtainable, or if none was received, that none was obtainable;

"(2) That the property was held in the course of a business carried on bona fide for profit; and

"(3) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

"The burden of proof will rest upon the taxpayer to sustain the deduction claimed. If a United States shareholder, in computing his distributive share of the undistributed Supplement P net income of a foreign personal holding company to be included in gross income in his individual return (see section 337 and article 337–1), claims deductions for expenses and depreciation allocable to the operation and maintenance of property owned or operated by the company, in an aggregate amount in excess of the rent or other compensation received for the use of, or the right to use, the property, he shall attach to his income tax return a statement setting forth his claim for allowance of the additional deductions together with a complete statement of the facts, circumstances and arguments on which he relies in support of his claim. Such statement shall set forth:

"(*a*) A description of the property;

"(*b*) The cost or other basis to the corporation and the nature and value of the consideration paid for the property;

"(*c*) The name and address of the person from whom acquired and the date thereof;

"(*d*) The name and address of the person to whom leased or rented, or the person permitted to use the property, and the number of shares of stock, if any, held by such person and the members of his family;

"(*e*) The nature and gross amount of the rent or other compensation received for the use of, or the right to use, the property during the taxable year and for each of the five preceding years and the amount of the expenses incurred with respect to, and the depreciation sustained on, the property for such years;

"(*f*) Evidence that the rent or other compensation was the highest obtainable and, if none was received, a statement of the reasons therefor;

"(*g*) A copy of the contract, lease or rental agreement;

"(*h*) The purpose for which the property was used;

"(*i*) The business carried on by the corporation with respect to which the property was held and the gross income, expenses and net income derived from the conduct of such business for the taxable year and for each of the five preceding years;

"(*j*) A statement of any reasons which existed for expectation that the operation of the property would be profitable, or a statement of the necessity for the use of the property in the business of the corporation, and the reasons why the property was acquired; and

"(*k*) Any other information on which the taxpayer relies.

"ART. 336–2. *Illustration of computation of Supplement P net income and undistributed Supplement P net income.*—The method of computation of the Supplement P net income and undistributed Supplement P net income may be illustrated as follows:

"The following facts exist with respect to the M Corporation, a foreign personal holding company, for the calendar year 1937:

"The gross income of the corporation as defined in section 334 amounts to $300,000, of which $85,000 represents its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder, $200,000 consists of dividends, $10,000 consists of interest, and the remainder ($5,000) consists of rent received from the principal shareholder of the corporation for the use of property owned by the corporation.

"The expenses of the corporation amount to $83,000, of which $75,000 is allocable to the maintenance and operation of the property used by the principal shareholder, and $8,000 consists of ordinary and necessary office expenses allowable as a deduction. The claim for deduction for the expenses of, and depreciation on, the rented property in excess of the rent received for its use is not established as provided in section 336 (b) (2). The yearly depreciation on the rented property amounts to $30,000.

"Federal income tax withheld at the source on the income of the corporation from sources within the United States amounts to $30,000.

"No gain from the sale or exchange of stock or securities is realized during the taxable year, but losses in the amount of $10,000 are sustained from the sale of stock or securities which constitute capital assets.

"Contributions made to or for the use of donees described in section 23 (q) of the Revenue Act of 1936, for the purposes therein specified, amount to $15,000, of which $5,000 is deductible in computing net income under section 21.

"Dividends paid by the corporation to its shareholders during the taxable year amount to $50,000.

"The net income for the purposes of computing the Supplement P net income of the corporation (including the distributive share of the undistributed Supplement P net income of the other foreign personal holding company) is $180,000, computed as follows (assuming for the purposes of this example only that the expenses of, and depreciation on, the rented property are deductible under section 23):

Income (section 22)

Dividends	$200,000
Interest	10,000
Rent	5,000
Gross income as defined in section 22	215,000
Add: Distributive share of undistributed Supplement P net income of the other foreign personal holding company (considered as a dividend)	85,000
Gross income as defined in section 334	300,000

Deductions (section 23)

Expenses allocable to operation of the rented property	$75,000	
Depreciation of the rented property	30,000	
Ordinary and necessary expenses (office)	8,000	
Losses (limited as provided in section 117)	2,000	
Contributions (within the 5 percent limitation specified in section 23 (q))	5,000	
		$120,000
Net income for purposes of computing Supplement P net income		180,000

"The Supplement P net income and the undistributed Supplement P net income of the corporation are $240,000 and $190,000, respectively, computed as follows:

Net income for purposes of computing Supplement P net income		$180,000
Add:		
Contributions deductible in computing net income under section 21	$5,000	
Excess property expenses and depreciation over amount of rent received for use of property ($105,000 — $5,000)	100,000	
	105,000	
Deduct:		
Federal income taxes	$30,000	
Contributions (within the 15 percent limitation specified in section 336 (a) (2))	15,000	
	45,000	
Net additions under section 336		60,000
Supplement P net income		240,000
Less: Dividends paid credit		50,000
Undistributed Supplement P net income		190,000

SEC. 337. *Corporation income taxed to United States shareholders.*—(a) *General rule.*—The undistributed Supplement P net income of a foreign personal holding company shall be included in the gross income of the citizens or residents of the United States, domestic corporations, domestic partnerships, and estates or trusts (other than estates or trusts the gross income of which under this title includes only income from sources within the United States), who are shareholders in such foreign personal holding company (hereinafter called "United States shareholders") in the manner and to the extent set forth in this Supplement.

(b) *Amount included in gross income.*—Each United States shareholder, who was a shareholder on the day in the taxable year of the company which was the last day on which a United States group (as defined in section 331 (a) (2)) existed with respect to the company, shall include in his gross income, as a dividend, for the taxable year in which or with which the taxable year of the company ends, the amount he would have received as a dividend if on such last day there had been distributed by the company, and received by the shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the company for the taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) *Credit for obligations of U. S. and its instrumentalities.*—Each United States shareholder shall be allowed a credit against net income, for the purpose of the tax imposed by section 11, 13, 14, 201, or 204, of his proportionate share of the interest specified in section 25 (a) (1) or (2) which is included in the gross income of the company otherwise than by the application of the provisions of section 334 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder).

(d) *Information in return.*—Every United States shareholder who is required under subsection (b) to include in his gross income any amount with respect to the undistributed Supplement P net income of a foreign personal holding company and who, on the last day on which a United States group existed with respect to the company, owned 5 per centum or more in value of the outstanding stock of such company, shall set forth in his return in complete detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of such company.

(e) *Effect on capital account of foreign personal holding company.*—An amount which bears the same ratio to the undistributed Supplement P net income of the foreign personal holding company for its taxable year as the portion of such taxable year up to and including the last day on which a United States group existed with respect to the company bears to the entire taxable year, shall, for the purpose of determining the effect of distributions in subsequent taxable years by the corporation, be considered as a contribution to capital.

(f) *Basis of stock in hands of shareholders.*—The amount required to be included in the gross income of a United States shareholder under subsection (b) shall, for the purpose of adjusting the basis of his stock with respect to which the distribution would have been made (if it had been made), be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only to the extent to which such amount is included in his gross income in his return, increased or decreased by any adjustment of such amount in the last determination of the shareholder's tax liability, made before the expiration of seven years after the date prescribed by law for filing the return.

(g) *Basis of stock in case of death.*—For basis of stock or securities in a foreign personal holding company acquired from a decedent, see section 113 (a) (5).

(h) *Liquidation.*—For amount of gain taken into account on liquidation of foreign personal holding company, see section 115 (c).

(i) *Period of limitation on assessment and collection.*—For period of limitation on assessment and collection without assessment, in case of failure to include in gross income the amount properly includible therein under subsection (b), see section 275 (d).

"ART. 337–1. *Income of foreign personal holding companies taxed to United States shareholders.*—

"(a) *General rule.*—Supplement P does not impose a tax on foreign personal holding companies. The undistributed Supplement P net income of such companies, however, must be included in the manner and to the extent set forth in this article, in the gross income of their 'United States shareholders', that is, the shareholders who are individual citizens or residents of the United States, domestic corporations, domestic partnerships (see section 1001 (a)), and estates or trusts other than estates or trusts the gross income of which under Title I includes only income from sources within the United States.

"(b) *Amount includible in gross income.*—Each United States shareholder, who was a shareholder on the day in the taxable year of the foreign personal holding company which was the last day on which a United States group (see section 331 (a) (2) and article 331–3) existed with respect to the company, shall include in his gross income, as a dividend, for the taxable year in which or with which the taxable year of the company ends, the amount he would have received as a dividend if on such last day there had been distributed by the company and received by the shareholders an amount which bears the same ratio to the undistributed Supplement P net income of the company for the taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

"The undistributed Supplement P net income of the foreign personal holding company is includible only in the gross income of the United States shareholders who were shareholders in the company on the last day of its taxable year on which the United States group existed with respect to the company. Such United States shareholders, accordingly, are determined by the stockholdings as of such specified time. This rule applies to every United States shareholder who was a shareholder in the company at the specified time regardless of whether the United States shareholder is included within the United States group. For example, a domestic corporation which is a United States shareholder at the specified time must return its distributive share in the undistributed Supplement P net income even though the domestic corporation cannot be included within the United States group since, under section 333 (a) (1) and article 333 (a)–2, the stock it owns in the foreign corporation is considered as being owned proportionately by its shareholders for the purpose of determining whether the foreign corporation is a foreign personal holding company.

The United States shareholders must include in their gross income their distributive shares of that proportion of the undistributed Supplement P net income for the taxable year of the company which is equal in ratio to that which the portion of the taxable year up to and including the last day on which the United States group with respect to the company existed bears to the entire taxable year. Thus, if the last day in the taxable year on which the required United States group existed was also the end of the taxable year, the portion of the taxable year up to and including such last

day would be equal to 100 percent and in such case, the United States shareholders would be required to return their distributive shares in the entire undistributed Supplement P net income. But if the last day on which the required United States group existed was September 30, and the taxable year was a calendar year, the portion of the taxable year up to and including such last day would be equal to $\frac{9}{12}$ and in that case, the United States shareholders would be required to return their distributive shares in only $\frac{9}{12}$ of the undistributed Supplement P net income.

"The amount which each United States shareholder must return is that amount which he would have received as a dividend if the above specified portion of the undistributed Supplement P net income had in fact been distributed by the foreign personal holding company as a dividend on the last day of its taxable year on which the required United States group existed. Such amount is determined, therefore, by the interest of the United States shareholder in the foreign personal holding company, that is, by the number of shares of stock owned by the United States shareholder and the relative rights of his class of stock, if there are several classes of stock outstanding. Thus, if a foreign personal holding company has both common and preferred stock outstanding and the preferred shareholders are entitled to a specified dividend before any distribution may be made to the common shareholders, then the assumed distribution of the stated portion of the undistributed Supplement P net income must first be treated as a payment of the specified dividend on the preferred stock before any part may be allocated as a dividend on the common stock.

"The assumed distribution of the required portion of the undistributed Supplement P net income must be returned as dividend income by the United States shareholders for their respective taxable years in which or with which the taxable year of the foreign personal holding company ends. For example, if the M Corporation whose taxable year is the calendar year is a foreign personal holding company for 1937, and if A, one of its United States shareholders makes returns on a calendar year basis, while B, another United States shareholder, makes returns on the basis of a fiscal year ending November 30, A must return his assumed dividend as income for the taxable year 1937, and B must return his distributive share as income for the fiscal year ending November 30, 1938. In applying this rule, the date as of which the United States group last existed with respect to the company is immaterial. Thus, in the foregoing example, if September 30, 1937, was the last day on which the United States group with respect to the M Corporation existed, B would still be required to return his assumed dividend as income for the fiscal year ending November 30, 1938, even though September 30, 1937, the date as of which the distribution is assumed to have been made, does not fall within such fiscal year.

"ART. 337–2. *Credit for obligations of the United States.*—Each United States shareholder required to return his distributive share in the undistributed Supplement P net income of a foreign personal holding company for any taxable year is allowed, for purposes of the tax imposed by section 11, 13, 14, 201, or 204, a credit against his net income for his proportionate share of whatever interest on obligations of the United States or its instrumentalities (as specified in section 25 (a) (1) and (2)) may be included in the gross income of the company for such taxable year, with the exception of any such interest as may be so included by reason of the application of the provisions of section 334 (b) and article 334–2.

"For example, the M Corporation is a foreign personal holding company which owns all the stock of the N Corporation, another foreign personal holding company. Both companies receive interest on obligations of the United States or its instrumentalities as specified in section 25 (a) (1) and (2). In applying the credit allowable under section 337 (c), the United States shareholders of the M Corporation would be entitled to a credit only for their proportionate shares of the interest received by that company and not for any part of the interest received by the N Corporation, regardless of whether the interest received by the N Corporation is included in the gross income of the M Corporation, as an actual dividend or as a constructive dividend under section 334 (b).

"ART. 337–3. *Information in return.*—The information required by section 337 (d) in the returns of certain United States shareholders relates only to the taxable year of a foreign personal holding company for which is computed such corporation's undistributed Supplement P net income, all or part of which must be included in gross income by the United States shareholder of whom the information is required. The information shall be submitted as a part of the income tax returns required by the Act of such persons, in the form of a statement attached to the return.

"ART. 337–4. *Effect on capital account of foreign personal holding company and basis of stock in hands of shareholders.*—Sections 337 (e) and 337 (f) are designed to prevent double taxation with respect to the undistributed Supplement P net income of foreign personal holding companies. The application of these sections may be illustrated by the following examples:

"*Example 1.*—The M Corporation is a foreign personal holding company. Seventy-five percent in value of its capital stock is owned by A, a citizen of the United States, and the remainder, or 25 percent, of its stock is owned by B, a nonresident alien individual. For the calendar year 1937 the M Corporation has an undistributed Supplement P net income of $100,000. A is required to include $75,000 of such income in gross income in his return for the calendar year 1937. The $100,000 is treated as a contribution to the capital of the M Corporation. If for the calendar year 1938, the M Corporation had no income and no accumulated earnings and profits, but distributed $100,000 as dividends, the dividends so distributed would be tax-free in the hands of both A and B. If, however, the M Corporation had accumulated earnings and profits of $100,000 at the beginning of 1937, the facts otherwise being the same, the distibutions in 1938 would be taxable to A, and the taxability of such distributions to B would depend upon the application of section 119 (a) (2) (B), relating to the treatment of dividends from a foreign corporation as income from sources within or without the United States.

"*Example 2.*—In Example 1 assume the basis of A's stock to be $300,000. If A includes in gross income in his return for the calendar year 1937, $75,000 of such income as a constructive dividend, the basis of his stock would be $375,000. When the $75,000 is distributed by the M Corporation tax-free the basis of A's stock, assuming no other changes, would again be $300,000. If A failed to include the $75,000 in gross income in his return as required by the Act and his failure was not discovered until after the seven-year period of limitations had expired, the application of the rule would not increase the basis of A's stock. The subsequent tax-free distribution of $75,000 would reduce his basis to $225,000, thus tending to compensate for his failure to include the amount of $75,000 in his gross income. If the undistributed Supplement P net income of the M Corporation is readjusted within the statutory period of limitations, thus increasing or decreasing the amount A would have to include in his gross income, proper adjustment is required to be made to the basis of A's stock on account of such readjustment.

SEC. 338. *Information returns by officers and directors.*—(a) *Monthly returns.*—On the fifteenth day of each month each individual who on such day is an officer or a director of a foreign corporation which, with respect to its taxable year (if not beginning more than twelve months before the date of the enactment of the Revenue Act of 1937) preceding the taxable year in which such month occurs, was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner

with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this Act. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the individuals who on such day are officers and directors of the corporation.

(b) *Annual returns.*—On the sixtieth day after the close of the taxable year of a foreign personal holding company each individual who on such sixtieth day is an officer or director of the corporation shall file with the Commissioner a return setting forth—

(1) In complete detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of such foreign personal holding company for such taxable year; and

(2) The same information with respect to such preceding taxable year as is required in subsection (a); except that if all the required reports with respect to such year have been filed under subsection (a) no information under this paragraph need be set forth in the annual report.

"ART. 338–1. *Information returns by officers and directors of certain foreign corporations—(a) Requirement for filing returns.—*

"(1) *General.*—Under section 338 (a), on the fifteenth day of *each* month each individual who on such day is an officer or a director of a foreign corporation which, with respect to its taxable year (if not beginning more than twelve months before August 26, 1937) preceding the taxable year in which such month occurs, was a foreign personal holding company, is required to file with the Commissioner a monthly information return as provided in that section and this article.

"(2) *Returns for a period exceeding one month.*—In the case of a foreign personal holding company which before the close of its taxable year specified in paragraph (a) (1) of this article, distributed to its shareholders 90 percent or more of its Supplement P net income, the following periods are prescribed with respect to which information returns on Form 957 shall be filed during the following year:

"The return required under section 338 (a) for the last month of the preceding taxable year shall be filed on the fifteenth day of the first month following the close of such taxable year. Subsequent returns shall be filed for each six-month period following the close of such taxable year and shall be filed on the fifteenth day of the first month following such period. If any change in the stockholdings or in the holdings of securities convertible into stock of the corporation occurs during such periods, a monthly information return must also be filed on the fifteenth day of the month following each month in which the change occurs. In any case under this paragraph where the date for filing a monthly return coincides with the date for filing the return for a six-month period only the return for the six-month period need be filed.

"(3) *Returns jointly made.*—If two or more officers or directors of a foreign corporation are required to file information returns for any period under section 338 (a) and this article, any two or more of such officers or directors may, in lieu of filing separate returns for such period, jointly execute and file one return.

"(b) *Form of return.*—The returns under section 338 (a) and this article shall be made on Form 957. Such forms may, upon request, be procured from any collector. Each officer or director should carefully prepare his return so as to set forth fully and clearly the information called for therein and by the applicable regulations. Returns which have not been so prepared will not be considered as meeting the requirements of the Act.

"(c) *Contents of return.*—The return on Form 957 shall, in accordance with the provisions of this article and the instructions on the form, set forth with respect to the preceding period the following information:

"(1) Name and address of corporation;

"(2) Kind of business in which the corporation is engaged;

"(3) Date of incorporation;

"(4) The country under the laws of which the corporation is incorporated;

"(5) Number of shares and par value of common stock of the corporation outstanding as of the beginning and end of the period;

"(6) Number of shares and par value of preferred stock of the corporation outstanding as of the beginning and end of the period, the rate of dividend on such stock and whether such dividend is cumulative or noncumulative;

"(7) A description of the convertible securities issued by the corporation, including a statement of the face value of, and rate of interest on, such securities;

"(8) The name and address of each shareholder, the class and number of shares held by each, together with any changes in sockholdings during such period;

"(9) The name and address of each holder of securities convertible into stock of the corporation, the class, number and face value of the securities held by each, together with any changes in the holdings of such securities during the period; and

"(10) Such other information as may be required by the return form.

"If a person is required to file a return under section 338 (a) and this article with respect to more than one foreign corporation, a separate return must be filed with respect to each foreign corporation.

"(d) *Verification of returns.*—All returns required by section 338 (a) and this article shall be verified under oath or affirmation in the same manner as prescribed in article 51–4.

"(e) *Penalties.*—For criminal penalties for failure to file the returns required by section 338 (a) and this article, see section 341.

"ART. 338–2. *Annual information returns by officers and directors of certain foreign corporations.—(a) Requirement for filing returns.—*

"(1) *General.*—Under section 338 (b), on the sixtieth day after the close of the taxable year of a foreign personal holding company each individual who on such sixtieth day is an officer or director of the corporation shall file with the Commissioner an annual information return as provided in that section and this article.

"(2) *Returns jointly made.*—If two or more officers or directors of a foreign corporation are required to file annual information returns under section 338 (b) and this article for any taxable year of the corporation, any two or more of such officers or directors may in lieu of filing separate annual returns for such taxable year, jointly execute and file one annual return.

"(b) *Form of return.*—The returns under section 338 (b) and this article shall be made on Form 958 and should be carefully prepared by each officer or director so as to set forth fully and clearly the information called for therein and by the applicable regulations. Returns which have not been so prepared will not be considered as meeting the requirements of the Act. Copies of Form 958 may, upon request, be procured from any collector.

"(c) *Contents of return.*—The return on Form 958 shall, in accordance with the provisions of this article and the instructions on the form, set forth with respect to the taxable year of the foreign personal holding company the following information:

"(1) In complete detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of the foreign personal holding company for such taxable year;

"(2) The same information with respect to such taxable year which is required by section 338 (a) and paragraph (c) of article 338–1, except that if all the required returns with respect to such year have been filed under section 338 (a) and article 338–1, no information under section 338 (b) (2) and this paragraph need be set forth in such annual return; and

"(3) Such other information as may be required by the return form.

"(*d*) *Verification of returns.*—All returns required by section 338 (b) and this article shall be verified under oath or affirmation as prescribed in article 51–4.

"(*e*) *Penalties.*—For criminal penalties for failure to file the returns required by section 338 (b) and this article, see section 341.

"ART. 338–3. *Time and place of filing returns.*—Returns required by section 338 and the regulations thereunder shall be filed with the Commisisoner of Internal Revenue, Washington, D. C., attention Records Division, and will be considered filed within the time or times required by law if, within such time or times, such returns are made and placed in the mails in due course, properly addressed and postage paid, provided they are actually received in the office of the Commissioner of Internal Revenue, Washington, D. C., even though received after such time or times.

SEC. 339. *Information returns by shareholders.*—(a) *Monthly returns.*—On the fifteenth day of each month each United States shareholder, by or for whom 50 per centum or more in value of the outstanding stock of a foreign corporation is owned directly or indirectly (including in the case of an individual, stock owned by the members of his family as defined in section 333 (a) (2)), if such foreign corporation with respect to its taxable year (if not beginning more than twelve months before the date of the enactment of the Revenue Act of 1937) preceding the taxable year in which such month occurs was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this Act. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the persons who on such day are United States shareholders.

(b) *Annual returns.*—On the sixtieth day after the close of the taxable year of a foreign personal holding company each United States shareholder by or for whom on such sixtieth day more than 50 per centum of the outstanding stock of such company is owned directly or indirectly (including in the case of an individual, stock owned by members of his family as defined in section 333 (a) (2)), shall file with the Commissioner a return setting forth the same information with respect to such preceding taxable year as is required in subsection (a); except that if all the required reports with respect to such year have been filed under subsection (a) no information under this subsection need be set forth in the annual report.

"ART. 339–1. *Information returns by shareholders of certain foreign corporations.—(a) Requirement for filing returns.*—

"(1) *General.*—On the fifteenth day of each month each United States shareholder, by or for whom 50 percent or more in value of the outstanding stock of a foreign corporation is owned, directly or indirectly (including in the case of an individual, stock owned by members of his family as defined in section 333 (a) (2)), if such foreign corporation with respect to its taxable year (if not beginning more than twelve months before August 26, 1937) preceding the taxable year in which such month occurs was a foreign personal holding company, shall file with the Commissioner an information return as provided in section 339 (a) and this article.

"(2) *Returns for a period exceeding one month.*—In the case of a foreign personal holding company which before the close of its taxable year specified in paragraph (a) (1) of this article, distributed to its shareholders 90 percent or more of its Supplement P net income, the periods with respect to which information returns under section 339 (a) shall be filed shall be the same as the periods prescribed in paragraph (a) (2) of article 338–1.

"(3) *Duplicate returns.*—If a shareholder in a foreign corporation files, as an officer or director in such corporation, the returns required by section 338 (a) and article 338–1 such returns shall be considered as returns filed under section 339 (a).

"(*b*) *Form of return.*—The return under section 339 (a) and this article shall be on Form 957, copies of which, upon request, may be secured from any collector. Each shareholder should carefully prepare his return so as to set forth fully and clearly the information called for therein and by the applicable regulations. Returns which have not been so prepared will not be considered as meeting the requirements of the Act.

"(*c*) *Contents of return.*—The return on Form 957 shall, in accordance with the provisions of this article and the instructions on the form, set forth with respect to the preceding period the same information as required to be shown on that form by section 338 (a) and paragraph (c) of article 338–1.

"If a person is required to file a return under section 339 (a) and this article with respect to more than one foreign corporation, a separate return must be filed with respect to each foreign corporation.

"(*d*) *Verification of returns.*—All returns required by section 339 (a) and this article shall be verified under oath or affirmation as prescribed in article 51–4.

"(*e*) *Penalties.*—For criminal penalties for failure to file the returns required by section 339 (a) and this article, see section 341.

"ART. 339–2. *Annual information returns by shareholders of certain foreign corporations.—(a) Requirement for filing returns.*—

"(1) *General.*—Under section 339 (b), on the sixtieth day after the close of the taxable year of a foreign personal holding company, each United States shareholder, by or for whom on such sixtieth day more than 50 percent in value of the outstanding stock of the company is owned directly or indirectly (including in the case of an individual stock owned by members of his family as defined in section 333 (a) (2)), shall file with the Commissioner an information return as provided in that section and this article.

"(2) *Duplicate returns.*—If a shareholder in a foreign corporation files, as an officer or director in such corporation, the returns required by section 338 (b) and article 338–2 such returns shall be considered as returns filed under section 339 (b).

"(*b*) *Form of return.*—The returns under section 339 (b) and this article shall be made on Form 957 and should be carefully prepared by each shareholder so as to set forth fully and clearly the information called for therein and by the applicable regulations. Returns which have not been so prepared will not be considered as meeting the requirements of the Act. Copies of Form 957 may, upon request, be procured from any collector.

"(*c*) *Contents of return.*—The return on Form 957 shall, in accordance with the provisions of this article and the instructions on the form, set forth with respect to the taxable year of the foreign personal holding company the same information which is required under section 339 (a), paragraph (c) of article 338–1 and paragraph (c) of article 339–1, except that if all the required returns with respect to such year have been filed under section 339 (a) and article 339–1, no information under section 339 (b) and this article need be set forth in such annual return.

"If a person is required to file an annual return under section 339 (b) and this article with respect to more than one foreign personal holding company, a separate return must be filed with respect to each foreign personal holding company.

"(*d*) *Verification of returns.*—All returns required by section 339 (b) and this article shall be verified under oath or affirmation as prescribed in article 51–4.

"(*e*) *Penalties.*—For criminal penalties for failure to file the returns required by section 339 (b) and this article see section 341.

"ART. 339–3. *Time and place of filing returns.*—Returns required by section 339 and the regulations thereunder shall be filed with the Commissioner of Internal Revenue, Washington, D. C., attention Records Division, and will be considered filed within the time or times required by law if, within such time or times, such returns are made and placed in the mails in due course, properly addressed and postage paid, provided they are actually received in the office of the Commissioner of Internal Revenue, Washington, D. C., even though received after such time or times.

SEC. 340. *Returns as to formation, etc., of foreign corporations.*—(a) *Requirement.*—Under regulations prescribed by the Commissioner with the approval of the Secretary, any attorney, accountant, fiduciary, bank, trust company, financial institution, or other person—

(1) Who, on or after the date of the enactment of the Revenue Act of 1937, aids, assists, counsels, or advises in, or with respect to, the formation, organization, or reorganization of any foreign corporation, shall, within 30 days thereafter, file with the Commissioner a return; or

(2) Who, since December 31, 1933, and prior to 90 days after the date of the enactment of the Revenue Act of 1937, has aided, assisted, counseled, or advised in the formation, organization, or reorganization of any foreign corporation shall, within 90 days after the date of the enactment of such Act, file with the Commissioner a return.

(b) *Form and contents of return.*—Such return shall be in such form, and shall set forth, under oath, in respect of each such corporation, to the full extent of the information within the possession or knowledge or under the control of the person required to file the return, such information as the Commissioner with the approval of the Secretary prescribes by regulations as necessary for carrying out the provisions of this Act. Nothing in this section shall be construed to require the divulging of privileged communications between attorney and client.

"ART. 340–1. *Returns of information with respect to foreign corporations by attorneys, accountants, or other persons.*—(*a*) *Return under section 340 (a) (1).*—Any attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who, on or after August 26, 1937, aids, assists, counsels, or advises in, *or with respect to,* the formation, organization, or reorganization of any foreign corporation shall file with the Commissioner, within 30 days after giving such aid, assistance, counsel, or advice, an information return as provided in section 340 (a) (1) and this article. The return must be filed in every such case (1) regardless of the nature of the counsel or advice given, whether for or against the formation, organization, or reorganization of the foreign corporation, or the nature of the aid or assistance rendered and (2) regardless of the action taken upon the advice or counsel, that is, whether the foreign corporation is actually formed, organized, or reorganized.

"If, in a particlular case, the aid, assistance, counsel or advice given by any person extends over a period of more than one day and not for more than 30 days, such person, to avoid the multiple filing of returns, may file a single return for the entire period. In such case, the return shall be filed within 30 days from the first day of such period. If, in a particular case, the aid, assistance, counsel or advice given by any person extends over a period of more than 30 days, such person may file a return at the end of each 30 days included within such period and at the end of the fractional part of a 30 day period, if any, extending beyond the last full 30 days. In each such case, the return must disclose all the required information which was not reported on a prior return.

"(*b*) *Return under section 340 (a) (2).*—Any attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who, since December 31, 1933, and prior to November 24, 1937 (the ninetieth day after the enactment of the Revenue Act of 1937), has aided, assisted, counseled, or advised in the formation, organization, or reorganization of any foreign corporation, shall file with the Commissioner, on or before November 24, 1937, an information return as provided in section 340 (a) (2) and this article. The return must be filed in every such case regardless of the nature of the counsel or advice given, whether for or against the formation, organization, or reorganization of the foreign corporation, or of the nature of the aid or assistance rendered, if such formation, organization, or reorganization occurs subsequent to the giving of such aid, assistance, counsel, or advice and prior to the expiration of ninety days after the date of enactment of the Act.

"(*c*) *Requirements common to returns under section 340 (a) (1) and section 340 (a) (2).*—

"(1) *Employers.*—In the case of aid, assistance, counsel, or advice, in, or with respect to, the formation, organization, or reorganization of a foreign corporation given by a person in whole or in part through the medium of subordinates or employees (including in the case of a corporation the officers thereof) the return of the employer must set forth to the full extent all information prescribed by this article including that which, as an incident to such employment, is within the possession or knowledge or under the control of such subordinates or employees.

"(2) *Employees.*—The obligation of a subordinate or employee (including in the case of a corporation the officers thereof) to file a return with respect to any aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of a foreign corporation, given as an incident to his employment, will be satisfied if a complete and accurate return as prescribed by section 340 and this article is duly filed by the employer setting forth all of the information within the possession or knowledge or under the control of such subordinate or employee.

"Clerks, stenographers, and other subordinates or employees, rendering aid or assistance solely of a clerical or mechanical character in, or with respect to, the formation, organization, or reorganization of a foreign corporation are not required to file returns by reason of such services.

"(3) *Partners.*—In the case of aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of a foreign corporation given by one or more members of a partnership in the course of its business, the obligation of each such individual member to file a return will be satisfied if a complete and accurate return, as prescribed by this article, is duly filed by the partnership, executed by all the members of the firm who gave any such aid, assistance, counsel, or advice. If, however, the partnership has been dissolved at the time the return is due, individual returns must be filed by each member of the former partnership who gave any such aid, assistance, counsel or advice.

"(4) *Returns jointly made.*—If two or more persons aid, assist, counsel or advise in, or with respect to, the formation, organization, or reorganization of a particular foreign corporation, any two or more of such persons may, in lieu of filing several returns, jointly execute and file one return.

"(*d*) *Form of return.*—The returns under this article shall be made on Form 959. Such forms may, upon request, be procured from any collector. Each person should carefully prepare the return so as to set forth fully and clearly the information called for therein and by the applicable regulations. Returns which have not been so prepared will not be considered as meeting the requirements of the Act.

"(*e*) *Contents of return.*—The return on Form 959 shall, in accordance with the provisions of this article and the instructions on the form, set forth the following information to the full extent such information is within the knowledge or possession or under the control of the person required to file the return:

"(1) The name and address of the person (or persons) to whom and the person (or persons) for whom or on whose behalf the aid, assistance, counsel or advice was given;

"(2) A complete statement of the aid, assistance, counsel or advice given;

"(3) Name and address of the foreign corporation and the country under the laws of which it was formed, organized, or reorganized;

"(4) The month and year when the foreign corporation was formed, organized, or reorganized;

"(5) A statement of how the formation, organization, or reorganization of the foreign corporation was effected;

"(6) A complete statement of the reasons for, and the purposes sought to be accomplished by, the formation, organization, or reorganization of the foreign corporation;

"(7) A statement showing the classes and kinds of assets, transferred to the foreign corporation in connection with its formation, organization, or reorganization, including a detailed list of any stock or securities included in such assets, and a statement showing the names and addresses of the persons who were the owners of such assets immediately prior to the transfer;

"(8) The names and addresses of the shareholders of the foreign corporation at the time of the completion of its formation, organization, or reorganization, showing the classes of stock and number of shares held by each;

"(9) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation;

"(10) Such other information as may be required by the return form; and

"(11) Where any of the information required to be furnished is withheld because its character is claimed to be privileged as a communication between attorney and client within the meaning of section 340 (b), the return must so state and must contain a complete statement of the nature and the circumstances of the communication on which a decision as to the propriety of the claim of privilege may be reached.

"If a person aids, assists, counsels or advises in, or with respect to, the formation, organization, or reorganization of more than one foreign corporation, a separate return must be filed with respect to each foreign corporation.

"(*f*) *Verification of returns.*—All returns required by section 340 and this article shall be verified under oath or affirmation as prescribed in article 51–4.

"(*g*) *Penalties.*—For criminal penalties for failure to file the returns required by section 340 and this article, see section 341.

"ART. 340–2. *Place of filing returns.*—Returns required by section 340 and the regulations thereunder shall be filed with the Commissioner of Internal Revenue, Washington, D. C., attention Records Division.

SEC. 341. *Penalties.*—Any person required under sections 338, 339, or 340 to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of the penalties provided in section 145 (a) for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than one year, or both.

Treasury Decision 4773, approved November 9, 1937[1] (Int. Rev. Bull. XVI–46, 4 (1937)), relating to returns of information with respect to foreign corporations, is hereby superseded.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, December 7, 1937.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 37–3610; Filed, December 10, 1937; 3:59 p. m.]

[1] 2 F. R. 2827 (DI).

Federal Alcohol Administration Division.

ADVERTISING ALCOHOLIC BEVERAGES AS APPETIZERS AND APERITIFS

DECEMBER 10, 1937.

To All Permittees:

The industry is familiar with the Administration's often expressed opinion that any advertisement which creates the impression that the consumption of alcoholic beverages will contribute to the mental or physical well-being of the consumer, or that such beverages can be consumed without detrimental effects, is prohibited under the Federal Alcohol Administration Act. Consistent with this opinion objection has been voiced to advertisements referring to the absence of "hangovers" on mornings following drinking, to the relaxing or soothing effects of alcoholic beverages on tired nerves, to improvements in appetite or digestion, to unaffected efficiency, and to many other similar effects.

In this connection representations have recently been made to the Administration by producers of distilled spirits, wines and malt beverages to the effect that the words "aperitif" and "appetizer" might properly be employed in the labeling and advertising of alcoholic beverages, without such use constituting a curative or therapeutic claim likely to mislead the consumer. Such representations have been predicated upon the fact that an "appetizer" is regarded by the average person as a small portion of food or drink taken before a meal, or as the first course of a meal, and that the word in its commonly accepted sense, as applied to the advertising of alcoholic beverages, would not be regarded as a representation with respect to the therapeutic benefits or the physiological effects of the product.

With these representations, the Administration is inclined to agree and takes this occasion to advise the industry that objection will not be voiced to the use, under the following conditions, of the words "aperitif" and "appetizer" in the advertising of alcoholic beverages:

(1) The words "aperitif" and "appetizer", when used in an advertisement, should be relatively inconspicuous in relation to the advertisement as a whole and should be incorporated as a part of an explanatory statement which makes it perfectly clear that such words refer solely to the time and method of consumption of the advertised product, as a beverage, and not to any possible therapeutic benefits or physiological effects

(2) The words "aperitif" and "appetizer" should not be used as a part of the class, type or other designation of any alcoholic beverage, other than medicated wines marketed under an approved label which describes the product as an "aperitif wine".

In line with the views above expressed it would be regarded as permissible under the regulations to state in respect to dry sherry, cocktails, vermouth, etc, that "it may be used at any time of day but is particularly appropriate as an appetizer before meals or at the cocktail hour", or that "it is especially suitable as an aperitif before dinner."

On the other hand, any statement which would tend to give the words "aperitif" and "appetizer" a meaning broader than that which indicates merely the appropriate time or method of consumption, would be prohibited. For example, it would be improper to state that any particular brand of distilled spirits, wine or malt beverages, or mixtures of the same, will "stimulate the appetite", or "promote the flow of gastric juices", or to make any other similar statement which tends to give the impression that the product has medicinal value, or that its consumption will have a beneficial effect upon the human system.

[SEAL] W. S. ALEXANDER, *Administrator.*

[F. R. Doc. 37–3607; Filed, December 10, 1937; 3:58 p. m.]

ELIMINATION FROM WINE LABELS OF SUPERVISORY DISTRICT NUMBER AND TAX PAYMENT REFERENCES

DECEMBER 10, 1937.

To All Bottlers and Packers of Wine:

The Administration has heretofore issued the bottlers and packers of wine numerous certificates of label approval covering labels which bear the phrase "Tax Paid by Stamps Affixed to Case" and which bear a statement of the Internal Revenue supervisory district number.

In view of Article XXIII of Regulations No. 7[1] of the Bureau of Internal Revenue, approved October 6, 1937, it is no longer required that the supervisory district number or the phrase "Tax Paid by Stamps Affixed to Case" appear on containers or labels of wine.

Accordingly, all bottlers and packers of wine having in their possession certificates of label approval issued by this Administration, covering labels which bear a statement of supervisory district number or the phrase "Tax Paid by Stamps Affixed to Case", are hereby authorized to revise such labels by eliminating therefrom the statement of supervisory district number and the phrase "Tax Paid by Stamps Affixed to Case". This circular letter will constitute a certificate of label approval for all labels so revised, provided such labels in all other respects are identical with labels heretofore covered by individual certificates of label approval on Form L-14.

[SEAL] W. S. ALEXANDER, *Administrator.*

[F. R. Doc. 37-3607; Filed, December 10, 1937; 3:58 p. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

FIRST FORM WITHDRAWAL BUFFALO RAPIDS PROJECT, MONTANA

NOVEMBER 26, 1937.

The SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976) it is recommended that the following described lands be withdrawn from public entry under the first form withdrawal as provided in Section 3, Act of June 17, 1902 (32 Stat., 388).

BUFFALO RAPIDS PROJECT, MONTANA

T. 13 N., R. 52 E.,
Section 24, NE¼SW¼ and Lot 4;
T. 13 N., R. 53 E.,
Section 8, E½NE¼;
Section 31, Lot 7;
Section 32, Lot 1;
T. 13 N., R. 54 E.,
Section 4, Lot 1;
T. 14 N., R. 55 E.,
Section 8, Lot 8;
T. 15 N., R. 55 E.,
Section 32, Lots 2 and 3.

Respectfully,

JOHN C. PAGE, *Commissioner.*

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary.

December 2, 1937.

[F. R. Doc. 37-3629; Filed, December 13, 1937; 9:55 a. m.]

FIRST FORM RECLAMATION WITHDRAWAL COLORADO RIVER STORAGE PROJECT

NOVEMBER 23, 1937.

The SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976), it is recommended that Departmental Order of November 3, 1936 establishing Grazing District No. 5, Nevada,[1] under and pursuant to the provisions of the Act of June 28, 1934, (48 Stat., 1269), be revoked in so far as the following described lands are affected, and the said lands be withdrawn from public entry under the first form withdrawal, as provided in Sec. 3, Act of June 17, 1902 (32 Stat., 388).

COLORADO RIVER STORAGE PROJECT

Mount Diablo Meridian, Nevada

T. 16 S., R. 67 E.,
Sec. 36, SE¼NE¼ and E½SE¼;
T. 17 S., R. 67 E.,
Sec. 1, NE¼ and S½;
Sec. 12, N½NW¼, NE¼, and NE¼SE¼;
T. 17 S., R. 68 E.,
Sec. 6, all;
Sec. 7, all

Respectfully,

JOHN C. PAGE, *Commissioner.*

I concur:

F. R. CARPENTER,
Director, Division of Grazing.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary.

December 6, 1937.

[F. R. Doc. 37-3630; Filed, December 13, 1937; 9:55 a. m.]

General Land Office.

STOCK DRIVEWAY WITHDRAWAL NO. 11, MONTANA NO. 1, ENLARGED

DECEMBER 2, 1937.

It appearing from examination that the following-described public lands should be included in Stock Driveway Withdrawal No. 11, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and of section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

PRINCIPAL MERIDIAN

T. 14 S., R. 10 W.
sec. 15, SE¼;
sec. 22, NE¼, E½SE¼;
aggregating 400 acres.

Any mineral deposits in the land shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 37-3632; Filed, December 13, 1937; 9:56 a. m.]

AIR NAVIGATION SITE WITHDRAWAL NO. 114, WYOMING

DECEMBER 6, 1937.

It appearing that the following-described tract of public land in Wyoming is necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section four of the act

[1] 2 F. R. 2467 (DI).

[1] 1 F. R. 1748.

of May 24, 1928, 45 Stat. 728, that such land be, and it is hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities, effective December 30, 1937, upon the expiration of an existing one-year lease under section 15 of the above-mentioned act of June 28, 1934, as amended:

SIXTH PRINCIPAL MERIDIAN

T. 16 N., R. 74 W., sec. 28, E½NE¼NE¼, E½ of lot 1, 42.90 acres.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 37-3631; Filed, December 13, 1937; 9:55 a. m.]

National Bituminous Coal Commission.

[Docket No. 82-FD]

IN THE MATTER OF CONTINENTAL COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Continental Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members produced within District No. 3,[1] the above entitled proceeding is assigned for hearing on December 20th, 1937, at 9:30 A. M. at the Hearing Room of the Commission at Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.[2]

By the Commission.

December 10, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3617; Filed, December 11, 1937; 11:59 a. m.]

[Docket No. 83-FD]

IN THE MATTER OF PENNCOAL, INC.

NOTICE OF HEARING

A petition having been filed with this Commission by Penncoal, Inc., pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it and in competition with District No. 3, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2,[3] the above entitled proceeding is assigned for hearing on December 20, 1937, at 9:30 A. M. at the Hearing Room of the Commission at Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.[2]

By the Commission.

December 10, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3618; Filed, December 11, 1937; 11:59 a. m.]

[1] 2 F. R. 3017 (DI).
[2] 2 F. R. Doc. 3186 (DI).
[3] 2 F. R. 3010 (DI).

[Docket 84-FD]

IN THE MATTER OF PURSGLOVE COAL MINING COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Pursglove Coal Mining Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 3,[1] the above entitled proceeding is assigned for hearing on December 20, 1937, at 9:30 A. M. at the Hearing Room of the Commission at Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.[2]

By the Commission.

December 10, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3619; Filed, December 11, 1937; 12:00 m.]

[Docket No. 85-FD]

IN THE MATTER OF CONSUMERS' COUNSEL

NOTICE OF HEARING

A petition having been filed with this Commission by Consumers' Counsel, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with coordination of minimum prices of coals produced in Districts No. 1 to No. 13, inclusive, the above entitled proceeding is assigned for hearing on December 21st, 1937, at 9:30 A. M., at the hearing room of the Commission at Washington, D. C., when opportunity will be afforded interested parties to be heard, pursuant to Section VIII of the Rules of Practice and Procedure before the Commission and Order No. 111 of the Commission.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.[2]

By the COMMISSION.

December 10, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3615; Filed, December 11, 1937; 11:57 a. m.]

[Docket No. 86-FD]

IN THE MATTER OF SOMERSET COUNTY COAL OPERATORS' ASSOCIATION

NOTICE OF HEARING

A petition having been filed with this Commission by Somerset County Coal Operators' Association, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1,[1] the above entitled proceeding is assigned for hearing on December 20, 1937, at 9:30 A. M. at the Hearing Room of the Commission at Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary

[2] 2 F. R. 3186 (DI).
[1] 2 F. R. 2992 (DI).

of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.[2]

By the Commission.

December 10, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3616; Filed, December 11, 1937; 11:57 a. m.]

[Order No. 115]

AN ORDER DECLARING THAT BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NUMBER 15 HAS FAILED TO TAKE ACTION REQUIRED BY THE COMMISSION'S ORDER NUMBER 42 AND THE BITUMINOUS COAL ACT OF 1937; PROVIDING FOR COMMISSION ACTION PURSUANT TO THE AUTHORITY OF SECTION 6 (A) OF SAID ACT, AND DIRECTING THAT SAID DISTRICT BOARD FILE WITH THE COMMISSION CERTAIN DATA

The Commission having by its Order No. 42 [1] directed all District Boards within Minimum Price Areas Numbers 3, 4, 5, 6, 7, 9 and 10 to propose minimum prices for all kinds, qualities and sizes of coal produced by code members in their respective districts, in conformity with the provisions of Section 4, Part II—Marketing, subsection (a) of the Act, and having further provided for the coordination of such proposed minimum prices as required under subsection (b) of Section 4, Part II of the Act, and having provided for the completion of such coordination and the submission of such coordinated minimum prices to the Commission not later than the 2nd day of October, 1937; and

It appearing that minimum prices were proposed in conformity with such order by the several District Boards, and it further appearing that District Board Number 15 failed to complete coordination with other Districts on or before the date prescribed by the Commission; and

It now appearing that after continued efforts by District Board Number 15, such Board has not at this time completed a voluntary coordination of proposed minimum prices as required under said Act and order of the Commission, and the Commission having concluded that voluntary coordination will not be accomplished within any reasonable period of time.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby declares, directs and orders:

1. That District Board Number 15 has failed to complete coordination with other Districts in accordance with the provisions of subsection (b), Part II, Section 4 of the Act and as directed by the Commission's Order Number 42.

2. That the Commission, pursuant to the authority of Section 6 (a) of said Act, will now proceed in lieu of said District Board Number 15 to coordinate in conformity with the provisions of Section 4, Part II, of said Act, the proposed minimum prices in such markets as are determined to be common consuming market areas and in such coordination to make such modifications of proposed minimum prices as may be required to give full effect to the differences, if any, between the tentative and actual weighted average of the total cost per net ton of the tonnage of Minimum Price Area Number 5 as previously required in Order No. 42 of the Commission.

3. That District Board Number 15, shall, on or before the 14th day of December, 1937, at twelve o'clock noon, transmit to and place in the hands of the Commission, all statistical data secured by it from code members within such District, together with all compilations made therefrom relative to the distribution and use of coals produced within said District, and all data upon which the minimum prices proposed by said District Board were computed, as well as all data utilized by said Board in proceeding with the work of coordination, all of which data and reports shall be available to the Commission for its use in proposing coordinated minimum prices.

4. That the Commission may from time to time require the appearance, formally or informally, of any District Board member, officer, or employee thereof, for the purpose of further informing the Commission as to facts concerning the production and distribution of coals produced in District Number 15.

The Secretary shall give notice of this order by mailing a copy thereof to the Secretary of District Board Number 15 and by mailing a copy to each member of said Board.

By order of the Commission.

Dated this 10th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3620; Filed, December 11, 1937; 12:01 p. m.]

[Order No. 116]

AN ORDER DECLARING THAT BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NUMBER SIXTEEN HAS FAILED TO TAKE ACTION REQUIRED BY THE COMMISSION'S ORDER NUMBER FORTY-TWO AND THE BITUMINOUS COAL ACT OF 1937; PROVIDING FOR COMMISSION ACTION PURSUANT TO THE AUTHORITY OF SECTION 6 (A) OF SAID ACT, AND DIRECTING THAT SAID DISTRICT BOARD FILE WITH THE COMMISSION CERTAIN DATA

The Commission having by its Order No. 42 [1] directed all District Boards within Minimum Price Areas Numbers 3, 4, 5, 6, 7, 9 and 10 to propose minimum prices for all kinds, qualities and sizes of coal produced by code members in their respective districts, in conformity with the provisions of Section 4, Part II—Marketing, subsection (a) of the Act, and having further provided for the coordination of such proposed minimum prices as required under subsection (b) of Section 4, Part II of the Act, and having provided for the completion of such coordination and the submission of such coordinated minimum prices to the Commission not later than the 2nd day of October, 1937; and

It appearing that minimum prices were proposed in conformity with such order by the several District Boards, and it further appearing that District Board Number Sixteen failed to complete coordination with other Districts on or before the date prescribed by the Commission; and

It now appearing that after continued efforts by District Board Number Sixteen, such Board has not at this time completed a voluntary coordination of proposed minimum prices as required under said Act and order of the Commission, and the Commission having concluded that voluntary coordination will not be accomplished within any reasonable period of time.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby declares, directs and orders:

1. That District Board Number Sixteen has failed to complete coordination with other Districts in accordance with the provisions of subsection (b), Part II, Section 4 of the Act and as directed by the Commission's Order Number Forty-two.

2. That the Commission, pursuant to the authority of Section 6 (a) of said Act, will now proceed in lieu of said District Board Number Sixteen to coordinate in conformity with the provisions of Section 4, Part II, of said Act, the proposed minimum prices in such markets as are determined to be common consuming market areas and in such coordination to make such modifications of proposed minimum prices as may be required to give full effect to the differences,

[1] 2 F. R. 2148 (DI).

[2] 2 F. R. 3186 (DI).

if any, between the tentative and actual weighted average of the total cost per net ton of the tonnage of Minimum Price Area Number 6 as previously required in Order No. 42 of the Commission.

3. That District Board Number Sixteen shall, on or before the 14th day of December, 1937, at twelve o'clock noon, transmit to and place in the hands of the Commission, all statistical data secured by it from code members within such District, together with all compilations made therefrom relative to the distribution and use of coals produced within said District, and all data upon which the minimum prices proposed by said District Board were computed, as well as all data utilized by said Board in proceeding with the work of coordination, all of which data and reports shall be available to the Commission for its use in proposing coordinated minimum prices.

4. That the Commission may from time to time require the appearance, formally or informally, of any District Board member, officer, or employee thereof, for the purpose of further informing the Commission as to facts concerning the production and distribution of coals produced in District Number Sixteen.

The Secretary shall give notice of this order by mailing a copy thereof to the Secretary of District Board Number Sixteen and by mailing a copy to each member of said Board.

By order of the Commission.

Dated this 10th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3621; Filed, December 11, 1937; 12:01 p. m.]

[Order No. 117]

AN ORDER DECLARING THAT BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NUMBER SEVENTEEN HAS FAILED TO TAKE ACTION REQUIRED BY THE COMMISSION'S ORDER NUMBER 42 AND THE BITUMINOUS COAL ACT OF 1937; PROVIDING FOR COMMISSION ACTION PURSUANT TO THE AUTHORITY OF SECTION 6 (A) OF SAID ACT, AND DIRECTING THAT SAID DISTRICT BOARD FILE WITH THE COMMISSION CERTAIN DATA

The Commission having by its Order No. 42[1] directed all District Boards within Minimum Price Areas Numbers 3, 4, 5, 6, 7, 9 and 10 to propose minimum prices for all kinds, qualities and sizes of coal produced by code members in their respective districts, in conformity with the provisions of Section 4, Part II—Marketing, subsection (a) of the Act, and having further provided for the coordination of such proposed minimum prices as required under subsection (b) of Section 4, Part II of the Act, and having provided for the completion of such coordination and the submission of such coordinated minimum prices to the Commission not later than the 2nd day of October, 1937; and

It appearing that minimum prices were proposed in conformity with such order by the several District Boards, and it further appearing that District Board Number Seventeen failed to complete coordination with other Districts on or before the date prescribed by the Commission; and

It now appearing that after continued efforts by District Board Number Seventeen, such Board has not at this time completed a voluntary coordination of proposed minimum prices as required under said Act and order of the Commission, and the Commission having concluded that voluntary coordination will not be accomplished within any reasonable period of time.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby declares, directs and orders:

1. That District Board Number Seventeen has failed to complete coordination with other Districts in accordance with the provisions of subsection (b), Part II, Section 4 of the Act and as directed by the Commission's Order Number 42.

2. That the Commission, pursuant to the authority of Section 6 (a) of said Act, will now proceed in lieu of said District Board Number Seventeen to coordinate in conformity with the provisions of Section 4, Part II, of said Act, the proposed minimum prices in such markets as are determined to be common consuming market areas and in such coordination to make such modifications of proposed minimum prices as may be required to give full effect to the differences, if any, between the tentative and actual weighted average of the total cost per net ton of the tonnage of Minimum Price Area Number 6 as previously required in Order No. 42 of the Commission.

3. That District Board Number Seventeen shall, on or before the 14th day of December, 1937, at twelve o'clock noon, transmit to and place in the hands of the Commission, all statistical data secured by it from code members within such District, together with all compilations made therefrom relative to the distribution and use of coals produced within said District, and all data upon which the minimum prices proposed by said District Board were computed, as well as all data utilized by said Board in proceeding with the work of coordination, all of which data and reports shall be available to the Commission for its use in proposing coordinated minimum prices.

4. That the Commission may from time to time require the appearance, formally or informally, of any District Board member, officer, or employee thereof, for the purpose of further informing the Commission as to facts concerning the production and distribution of coals produced in District Number Seventeen.

The Secretary shall give notice of this order by mailing a copy thereof to the Secretary of District Board Number Seventeen and by mailing a copy to each member of said Board.

By order of the Commission.

Dated this 10th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3622; Filed, December 11, 1937; 12:03 p. m.]

[Order No. 118]

AN ORDER DECLARING THAT BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NUMBER 18 HAS FAILED TO TAKE ACTION REQUIRED BY THE COMMISSION'S ORDER NUMBER 42 AND THE BITUMINOUS COAL ACT OF 1937; PROVIDING FOR COMMISSION ACTION PURSUANT TO THE AUTHORITY OF SECTION 6 (A) OF SAID ACT, AND DIRECTING THAT SAID DISTRICT BOARD FILE WITH THE COMMISSION CERTAIN DATA

The Commission having by its Order No. 42[1] directed all District Boards within Minimum Price Areas Numbers 3, 4, 5, 6, 7, 9 and 10 to propose minimum prices for all kinds, qualities and sizes of coal produced by code members in their respective districts, in conformity with the provisions of Section 4, Part II—Marketing, subsection (a) of the Act, and having further provided for the coordination of such proposed minimum prices as required under subsection (b) of Section 4, Part II of the Act, and having provided for the completion of such coordination and the submission of such coordinated minimum prices to the Commission not later than the 2nd day of October, 1937 and

It appearing that minimum prices were proposed in conformity with such order by the several District Boards, and it further appearing that District Board Number 18 failed to complete coordination with other Districts on or before the date prescribed by the Commission; and

It now appearing that after continued efforts by District Board Number 18, such Board has not at this time com-

[1] 2 F. R. 2148 (DI).

[1] 2 F. R. 2148 (DI).

pleted a voluntary coordination of proposed minimum prices as required under said Act and order of the Commission, and the Commission having concluded that voluntary coordination will not be accomplished within any reasonable period of time.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby declares, directs and orders:

1. That District Board Number 18 has failed to complete coordination with other Districts in accordance with the provisions of subsection (b), Part II, Section 4 of the Act and as directed by the Commission's Order Number 42.

2. That the Commission, pursuant to the authority of Section 6 (a) and said Act, will now proceed in lieu of said District Board Number 18 to coordinate in conformity with the provisions of Section 4, Part II, of said Act, the proposed minimum prices in such markets as are determined to be common consuming market areas and in such coordination to make such modifications of proposed minimum prices as may be required to give full effect to the differences, if any, between the tentative and actual weighted average of the total cost per net ton of the tonnage of Minimum Price Area Number 6 as previously required in Order No 42 of the Commission

3. That District Board Number 18, shall, on or before the 14th day of December, 1937, at twelve o'clock noon, transmit to and place in the hands of the Commission, all statistical data secured by it from code members within such District, together with all compilations made therefrom relative to the distribution and use of coals produced within said district, and all data upon which the minimum prices proposed by said District Board were computed, as well as all data utilized by said Board in proceeding with the work of coordination, all of which data and reports shall be available to the Commission for its use in proposing coordinated minimum prices

That the Commission may from time to time require the appearance, formally or informally, of any District Board member, officer, or employee thereof, for the purpose of further informing the Commission as to facts concerning the production and distribution of coals produced in District Number 18.

The Secretary shall give notice of this order by mailing a copy thereof to the Secretary of District Board Number 18 and by mailing a copy to each member of said Board.

By order of the Commission.

Dated this 10th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3623; Filed, December 11, 1937; 12:03 p. m.]

[Order No. 119]

AN ORDER PRESCRIBING AND ESTABLISHING MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICT NUMBER FOURTEEN, PURSUANT TO SECTION 4, PART II, OF THE BITUMINOUS COAL ACT OF 1937

The National Bituminous Coal Commission having by its Orders No. 9 and 25 [1] directed all District Boards to propose reasonable rules and regulations incidental to the sale and distribution of coals of code members produced within their respective districts, and to coordinate such marketing rules and regulations in the manner therein provided, and submit same to the Commission; and the said District Boards having proposed such rules and regulations, as directed, and the District Boards having coordinated the rules and regulations as proposed by them with certain exceptions, which exceptions were submitted to the Commission, together with coordination agreements, and statements of the reasons therefor having been submitted to the Commission at a hearing; the Commission having given due consideration to the marketing rules and regulations as proposed and coordinated by the District Boards, as well as to the exceptions made thereto, and all, other evidence and pertinent data submitted to it, and having conformed said marketing rules and regulations to the standards as set forth in Section 4, Part II of the Bituminous Coal Act of 1937,

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Marketing Rules and Regulations, incidental to the sale and distribution of coals of Code Members within District Number Fourteen as set forth in the document so captioned, and filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, shall be and hereby are established and prescribed as the Marketing Rules and Regulations incidental to the sale and distribution of coals of Code Members in said District Number Fourteen, and said Marketing Rules and Regulations shall be and become effective at 12:01 A. M. on the 27th day of December, 1937.

2. That any Code Member or the District Board or member thereof, or any State or political subdivision of a State, or the Consumers' Counsel who shall be dissatisfied with the Marketing Rules and Regulations may at any time after this date make complaint by petition to the Commission, pursuant to Section 4, Part II, (d), and in conformity with the Commission's Rules of Practice and Procedure, and the Commission shall after notice and hearing make such further order as may be required to effectuate the purpose of subsection (b) of Part II of Section 4 of the Act. Pending final disposition of such petition and upon reasonable showing of necessity therefor, the Commission may at any time make such preliminary or temporary order as in its judgment may be appropriate, and not inconsistent with the provisions of the Act.

3. That the Secretary of the Commission shall forthwith mail copies of this order and the Marketing Rules and Regulations incidental to the sale and distribution of coals of Code Members of District Number Fourteen, to the Consumers' Counsel, the Secretary of Bituminous Coal Producers Board for District Number Fourteen, and to all Code Members within said District, shall cause copies of this order and said Marketing Rules and Regulations and copies of the Commission's Rules of Practice and Procedure to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all statistical bureaus of the Commission, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 10th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

MARKETING RULES AND REGULATIONS, INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICT NUMBER 14

Marketing Rules and Regulations, Incidental to the Sale and Distribution of Coals of Code Members within District Number 14, as set forth herein have been prescribed and established by Order of the Commission, subject to such modification and revision as the Commission may establish by further Orders.

F. WITCHER MCCULLOUGH, *Secretary.*

Dated, December 10, 1937.

SECTION I—DEFINITIONS

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, co-operatives, receivers and trustees in bankruptcy and

[1] 2 F. R. 1312, 1521 (DI).

in other legal proceedings, and any other recognized forms of business organizations.

2. A "Sales Agent" is a person who as agent, in law or in fact, sells coal for or on behalf of a code member.

3. A "commission" is the total of all compensations and allowances for services received by a sales agent from a code member for the sale of coal.

4. A "Wholesaler" is a person who purchases coal for resale and who resells such coal in lots of not less than a cargo or railroad carload, without physically handling such coal.

5. A "Farmers' Cooperative Organization" is a bona fide and legitimate cooperative organization duly organized under the laws of any State, Territory, the District of Columbia, or the United States, and composed of local farmers' cooperative organizations, and which purchases coal for resale and resells it in lots of not less than a cargo or railroad carload to its member farmers' organizations, without physically handling such coal.

6. A "wholesale discount" is the total of all allowances or reductions from minimum or other prices allowed to a wholesaler or farmers' cooperative organization by a code member or his sales agent.

7. "Retailing" is the selling of coal in lots of less than a cargo or railroad carload.

8. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

9. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

10. A "commitment" is a contract or spot order after a quotation is accepted or an option is exercised and not reduced to writing.

11. A "quotation" is an offer for the sale of coal at a price which the offeror may withdraw prior to its being acted upon by the offeree.

12. An "option" is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offeror may not withdraw the offer without consent of the offeree.

13. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

14. "Act" as used herein, shall mean the Bituminous Coal Act of 1937.

15. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

16. "Statistical Bureau" shall mean, unless otherwise specifically stated, the statistical bureau of the Commission for the district in which the coal involved in any transaction is produced, or the district in which is located a mine of a code member affected by any order or regulation.

17. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

18. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

19. Registration and Register" as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

SECTION II.—SALES AGENTS

1. All appointments of sales agents by code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. All contracts for the appointment of sales agents by code members or by agents or authorized representatives of code members shall be in writing. Certified copies of all such agency contracts entered into and in effect prior to the effective date of these rules and regulations shall be filed by the code member with the statistical bureau or bureaus for the district in which the code member produces coal, on or before January 31, 1938.

Certified copies of all contracts appointing sales agents made subsequent to the effective date of these rules and regulations, shall be similarly filed by the code member within ten (10) days after the date upon which such contracts have been entered into.

4. As to all coal sold by a code member otherwise than through a sales agent or through sales representatives regularly employed as salesmen by the code member, such code member shall, not later than the tenth day of each calendar month, file with the statistical bureau, a list of all his sales representatives and all wholesalers through whom, directly or indirectly, any such coal was sold, with a statement (as to sales representatives) of the duration and character of their employment, the tonnage sold by each such sales representative and wholesaler, and the amount of compensation or discounts paid to and allowed by them.

Each code member shall file monthly similar information obtained from his sales agents with the statistical bureau, concerning sales of coal made by the sales agents' representatives other than salesmen regularly employed.

5. A list showing the names and addresses of sales agents and the code members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by code members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the code member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. On and after February 1, 1938, no code member shall pay any commission or make any allowance to any sales agent unless the contract of agency shall have been filed with the Coal Commission as hereinbefore required and unless the sales agent shall have agreed in writing with the code member to conform to and observe the minimum prices and Marketing Rules and Regulations established by the Coal Commission and shall have conformed to the Fair Trade Practice provisions of the Code, as well as to these Marketing Rules and Regulations and all other proper orders of the Coal Commission.

SECTION III—REGISTRATION OF WHOLESALERS

I. From and after the date hereinafter provided no code member or sales agent of a code member shall pay or allow any discount from minimum or other prices to any wholesaler as herein defined unless such wholesaler shall be registered with the Coal Commission at the time of the sale.

II. Wholesalers of coal desiring to qualify themselves so as to be entitled to receive from code members or their sales agents discounts from minimum prices established by the Coal Commission shall make application to be designated as Registered Wholesalers.

III. The form of application to be filed for approval as a Registered Wholesaler shall among other things set forth:

(*a*) The name of the applicant.

(*b*) The address of his principal place of business together with the address of each branch office maintained.

(*c*) The form of organization of applicant's business, whether corporate, partnership, individual or any other form.

(*d*) The names and addresses of all officers, directors, managers and other parties in interest, including in the

case of a corporation, the names of all stockholders, bondholders and other persons having a substantial interest.

(*e*) The total tonnage of bituminous coal handled by the applicant in the years 1934; 1935; 1936 and the first six (6) months of 1937, together with a schedule of tonnage handled in 1936 and in the first six (6) months of 1937 for each code member.

Also a list showing the names and addresses of any person to whom the wholesaler sold more than ten percent of the coal of any code member handled by applicant in the year 1936.

(*f*) A statement of the applicant's affiliation, if any, with any coal producer, whether or not a code member, or any transporter, processor, distributor or consumer of coal.

(*g*) Each application must be accompanied by duplicate copies of the "Terms of Registration" hereinafter set forth, each properly signed and acknowledged.

A. On behalf of corporations, by a principal officer or officers of the corporation duly authorized to act.

B. On behalf of a partnership, by one or more of the partners duly authorized for that purpose.

C. On behalf of an individual, by the applicant or his attorney duly empowered for that purpose.

D. In the case of any other form of business organization, by a person or persons legally authorized to execute an application on behalf of the applicant."

IV. Each such application shall be accompanied by the following agreement, executed in duplicate and properly signed and acknowledged on behalf of applicant.

Terms of Registration

The undersigned wholesaler agrees upon being registered as a "Registered Wholesaler" by the Coal Commission and thereby becoming entitled to discounts authorized by the Coal Commission:

(1) Not to sell, deliver, resell or offer for sale any coal at a price less than the minimum price nor greater than the maximum price established by the Coal Commission for such coal and in effect on the date of delivery, and to sell coal produced only by code members.

(2) To comply with the provisions of Section 4, Part II (i) of the Bituminous Coal Act of 1937 relating to unfair methods of competition.

(3) To accept no discount on coal unless such coal is purchased for bona fide resale in conformity with these rules and regulations and the orders of the Coal Commission.

(4) To abide by the Marketing Rules and Regulations from time to time established by the Coal Commission governing the sale and distribution of coal.

(5) To furnish or cause to be furnished to the Coal Commission at any time upon its direction, a copy of every resale contract or order; a copy of each invoice to wholesaler's vendee, together with copies of each credit memorandum and such other information concerning the sale and distribution of coal as the Coal Commission may require.

(6) To include in every spot order and contract made or entered into by the Registered Wholesaler, the following provision:

This contract (or order) is made and accepted subject to the Marketing Rules and Regulations established by the National Bituminous Coal Commission and now in effect, and particularly to the terms of registration of wholesalers as set forth herein.

V. After receipt of any such application, the Coal Commission upon a determination that the applicant is a bona fide wholesaler agreeing to conform to its Marketing Rules and Regulations, shall register such person as a Registered Wholesaler and shall issue to the applicant a certificate of registration accordingly. The Coal Commission shall promptly notify each District Board of such registration and shall publish from time to time for the information of code members, a list of Registered Wholesalers, which list shall be amended from time to time as the Coal Commission may direct, to show additions, withdrawals or removals.

VI. At any time upon complaint or upon its own motion, the Coal Commission may investigate and determine whether a Registered Wholesaler has violated the rules and regulations prescribed by the Coal Commission governing the resale of coal by such Registered Wholesaler.

The registration of any such wholesaler, may be suspended by the Coal Commission after hearing, held upon twenty (20) days' written notice by mail to the wholesaler, and upon proof of failure or refusal to comply with any duty or requirement imposed upon the wholesaler by reason of his registration with the Coal Commission, the registration of the offending wholesaler may be suspended for such period of time as the Coal Commission in its discretion may deem proper. Each District Board and all code members in the districts in which the Registered Wholesaler has been purchasing coal for resale shall be duly notified by the Coal Commission of any suspension, including the effective date and the period thereof.

SECTION IV—FARMERS' COOPERATIVE ORGANIZATIONS

I. Farmers' Cooperative Organizations as hereinbefore defined shall, in order to obtain the privileges granted by the second paragraph of Number 13, subsection (i) of Part II—Marketing—of Section 4 of the Act, be registered with the Coal Commission as herein required and no code member or his sales agent shall pay or allow any discount from minimum prices to any farmers' cooperative organization on or after the first day of February 1938, unless such farmers' cooperative organization shall be so registered at the time of the sale.

II. Each such farmers' cooperative organization desiring to obtain such privileges and discounts shall make application to the Coal Commission for registration as bona fide and legitimate farmers' cooperative organization. Such application shall among other things set forth:

(1) The name and Post Office address of the applicant, date of organization and the names and addresses of the officers and directors, if any.

(2) The names of the local farmers' cooperatives which are members of applicant organization.

(3) The form of organization of applicant's business, with a reference to the law or laws under which such organization was formed.

(4) A statement of the purpose for which such organization is formed, as set forth in its Charter or Articles of Association.

(5) A statement of the qualifications for membership in such organization, as set forth in its Charter or Articles of Association, together with a specific statement as to whether membership is actually limited to bona fide local farmers' cooperatives.

(6) A statement of the terms and conditions under such organization grants rebates, discounts, patronage dividends or other similar benefits to its members and the amount of rate thereof.

(7) A statement setting forth the territories in which applicant operates or proposes to operate.

(8) A statement showing the tonnages of bituminous coal purchased and resold by applicant in the calendar years 1934; 1935; 1936 and the first six (6) months of 1937.

III. Each such application shall have attached thereto duplicate copies of the following agreement, duly authorized, executed and acknowledged on behalf of applicant:

The undersigned Farmers' Cooperative Organization agrees, upon being registered as a Farmers' Cooperative Organization by the Coal Commission and thereby becoming entitled to discounts authorized by the Commission:

(1) Not to sell, deliver, resell or offer for sale any coal at a price less than the minimum price nor greater than the maximum price established by the Coal Com-

mission for such coal and in effect on the date of delivery.

(2) To comply with the provisions of Section 4, Part II (i) of the Bituminous Coal Act of 1937 relating to Unfair Methods of Competition.

(3) To accept no discount on coal from a code member unless such coal is purchased for bona fide resale in conformity with the rules and regulations and orders of the Coal Commission.

(4) To abide by the Marketing Rules and Regulations from time to time established by the Coal Commission governing the sale and distribution of coal.

(5) To furnish or cause to be furnished to the Coal Commission at any time upon its direction, such information as to sales of coal made by applicant as the Coal Commission may require.

IV. After receipt of any such application the Coal Commission, upon a determination that the applicant is a bona fide and legitimate farmers' cooperative organization as defined in said Act and in these regulations, shall register such applicant as a Registered Farmers' Cooperative Organization and shall issue to the applicant a certificate of Registration accordingly. The Commission shall promptly notify each District Board of such registration and shall publish from time to time for the information of code members, a list of Registered Farmers' Cooperative Organizations, which list shall be amended from time to time as the Coal Commission may direct in order to show additions, withdrawals or removals.

V. At any time upon complaint or upon its own motion, the Coal Commission may investigate and determine whether a Registered Farmers' Cooperative Organization has violated the rules and regulations prescribed by the Coal Commission governing the resale of coal by such Registered Farmers' Cooperative Organization.

The registration of any such Registered Farmers' Cooperative Organization may be revoked by the Coal Commission after hearing, held upon twenty (20) days written notice by mail, upon proof that such Registered Farmers' Cooperative Organization no longer complies with the requirements of the Act and of the Coal Commission, and in case of failure or refusal to comply with any duty or requirement imposed upon the Registered Farmers' Cooperative Organization by reason of its Registration with the Coal Commission having been established, the Coal Commission may suspend the Registration for such period of time as the Coal Commission in its discretion may deem proper. Each District Board and all code members in which the Registered Farmers' Cooperative Organization has been purchasing coal for resale shall be notified by the Coal Commission of any revocation or suspension, including the effective date and the period of any suspension.

SECTION V—DISCOUNTS AND ALLOWANCES

Section 4, Part II, subsection (i) of the Act provides:

(i) The following practices with respect to coal shall be unfair methods of competition and shall constitute violations of the code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, That coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports, when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona-fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade-marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of any organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal.

1. Effective February 1, 1938, no code member or sales agent of a code member shall allow or pay, directly or indirectly, any compensation for the selling of coal, whether by way of commission or allowance, to any sales agent whose contract of agency shall not have been filed with the Coal Commission.

2. Effective January 15, 1938, no code member or sales agent of a code member shall pay or allow any discount to any wholesaler or farmers' cooperative organization who shall not have filed an application for registration with the Coal Commission in the manner provided in Sections III and IV of these Marketing Rules and Regulations.

3. Effective February 1, 1938, no code member or sales agent of a code member shall pay or allow any discount to any wholesaler or farmers' cooperative organization which shall not be registered with the Coal Commission in the manner provided in Sections III and IV of these Marketing Rules and Regulations.

4. No commission shall be paid or discount allowed by a code member on any coal sold for locomotive fuel purposes.

5. No discount from minimum or other prices shall be paid or allowed on coal sold to any person for retailing by him.

6. Subject to further order of the Coal Commission, the amount of commission to be paid by the code member to his sales agent and the amount of the discount to be allowed to a Registered Wholesaler or Registered Farmers' Cooperative Organization by a code member or his sales agent shall be fixed by agreement of the parties subject, however, to review as to the reasonableness of such commission or discount by the Coal Commission upon complaint or upon its own motion. In every case reviewed by the Coal Commission, the code member, sales agent or Registered Wholesaler or Registered Farmers' Cooperative Organization shall have the burden of establishing that the commission paid or discount allowed was a reasonable charge commensurate with the service actually rendered and did not exceed the fair cost of the service plus a reasonable profit on the transaction involved, and that the commission or discount so allowed was in conformity with the provisions of the Bituminous Coal Code and the Marketing Rules and Regulations of the Coal Commission.

7. No commission shall be paid to a sales agent or discount allowed to a wholesaler by a code member, where the coal is delivered or resold to any person who controls in whole or in part the sales agent or wholesaler.

SECTION VI—LIMITATIONS OF ORDERS, AGREEMENTS, AND QUOTATIONS

1. Until further order of the Coal Commission no code member or sales agent of a code member and no wholesaler or farmers' cooperative organization, registered or proposing to register shall enter into any agreement or order for the sale or delivery of coal for a period in excess of thirty (30) days from the date of such agreement or order, and no prices shall be less than the minimum prices in effect at the time of delivery; Provided, however; that contracts for periods not exceeding one (1) year at prices not less than the minimum prices established by the Coal Commission, in effect at the time of delivery, may be made with agencies of the Federal Government or with such agencies of State or local governments as are required by law to purchase coal for periods in excess of thirty (30) days. In the case of governmental agencies options may be given for a period not exceeding forty-five (45) days. No option for the sale of coal may be given, except as herein specifically provided.

2. All quotations shall be made or confirmed in writing, and shall, without notice, become null and void immediately upon the establishment by the Coal Commission of a revised minimum price for the coal covered by the quotation.

SECTION VII—SPOT ORDERS

1. Spot orders shall be acknowledged or accepted in writing within five (5) business days from the date of their receipt.

2. Every acceptance of a spot order shall contain the following clauses:

(*a*) "If the price herein named is f. o. b. any point other than the originating mine, such price shall be increased or decreased by the amount and at the time of any change in the published freight rate included in such price and becoming effective during the period of the order.

(*b*) "No shipment consigned to any destination point may be reconsigned en route or otherwise without the consent of the seller. In case of any reconsignment the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered.

(*c*) "The coal shipped pursuant to this order is sold and purchased upon the condition that it shall be used in the plant or plants and at the destination named herein and for the use stated herein and is not to be sold or diverted by the buyer to other destinations or uses without the consent of the seller. In case of diversion the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery at such other destinations and for the use to which actually applied.

(*d*) "If shipments called for by this order are not completed within thirty (30) days from the date of this order, the unfilled portion of the order shall be cancelled and no delivery of such tonnage shall be made."

3. In any case where a sale is made by a sales agent of a code member or by a Registered Wholesaler or Registered Farmers' Cooperative Organization, such sales agent or Registered Wholesaler or Registered Farmers' Cooperative Organization shall not exercise the rights of the seller as defined in items 2 (b) and 2 (c) of this section without first securing the consent in writing of the code member producing such coal.

4. All terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the acceptance. Any modification must be made in writing and filed in the same manner as an order.

SECTION VIII—USE OF COAL ANALYSES

1. No analysis of coal shall be utilized by a code member, sales agent, sales representative or wholesaler, or farmers' cooperative organization making a resale, in selling or offering for sale any coal produced by the code member, unless such code member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the district in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the code member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British Thermal Units and ash softening temperature. Each analysis shall further show whether made on an "as received" or moisture "free" basis and if on an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the code member.

3. Any analysis of the coal of a code member made by or on behalf of a consumer and accepted by the code member as the basis for an adjustment of price under any contract or order shall be filed by the code member with the proper Statistical Bureau and District Board, within ten (10) days after such adjustment is made and shall be subject to the provisions of Rule No. 2 herein.

4. No agreement or order for the sale of coal produced by a code member, made upon a premium and penalty basis, shall be entered into or accepted by a code member or wholesaler unless the analysis upon which the premium and penalty clause is based has been previously filed as required in Rule No. 1. Such analysis shall be accompanied by a statement setting forth in full the terms of the premium and penalty provisions of the proposed contract or order.

5. In the case of premium and penalty agreements entered into prior to the effective date of these regulations, and claimed to be continuing in effect, the code member, sales agent or wholesaler, party to the agreement, shall file a statement containing the information required under Rule No. 4, within fifteen (15) days from such effective date.

SECTION IX—TERMS OF PAYMENT

The price and fair trade practice provisions of the Act shall not be evaded or violated by a code member, his sales agent or any Registered Wholesaler or Registered Farmers'

Cooperative Organization through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. On rail shipments the date of payment of invoices for coal sold shall be on or before the 20th day of the month following shipment.

2. On railroad locomotive fuel, the date of payment shall be on or before the 25th of the month following the date of shipment.

3. Payment shall be made in full and on a net cash basis. No portion of the invoice price may be withheld by agreement by reason of any unadjusted claim of the buyer nor shall any portion be withheld or deposited in escrow by reason of any alleged agreement relating to the constitutionality of any provision of the Act or the validity of any order of the Coal Commission.

4. Where payment is made by note, trade acceptance or other form of indebtedness, the seller shall charge and the buyer shall pay interest at the current market rate.

5. Freight on rail shipments shall not be paid by a code member, his sales agent or a Registered Wholesaler or Registered Farmers' Cooperative Organization, except to prepay stations as published in current railway tariffs or to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

SECTION X—CRUSHING AND PULVERIZING COAL

1. Each code member who maintains and operates at his mine or at any facility used in preparing coals for market, any crushing or pulverizing device, shall register such device with the Statistical Bureau of the Coal Commission, on or before the Twentieth (20th) day of January, 1938, on forms submitted by the Coal Commission.

2. Such forms shall include the following:

1. Name and address of code member.
2. Name of mine or facility at which device is located.
3. Name and style or type of crushing or pulverizing device.
4. Hourly capacity of device.
5. Sizes of coal which device can crush or pulverize.
6. Sizes of coal resulting from crushing or pulverizing.
7. Number of tons crushed in 1936 and in each month of 1937.
8. Cost per ton of crushing or pulverizing in 1936.

3. Beginning with the month of January 1938, each code member shall on or before the tenth (10th) day of each succeeding month, file with the Statistical Bureau on forms to be provided by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

(*a*) Number of tons of each size crushed or pulverized.
(*b*) Number of tons of each size resulting from crushing or pulverizing.

4. No code member shall sell any coal crushed or pulverized at a price less than the minimum price established for the grade and size of coal before the crushing or pulverizing process plus five cents (5¢) per net ton.

SECTION XI—MISCELLANEOUS

1. No deduction or allowance shall be granted from invoice prices by any code member or sales agent, wholesaler or farmers' cooperative organization to any purchaser for advertising.

2. The price and fair trade practice provisions of the Act shall not be evaded by any payment or allowance by a code member to any purchaser or purchaser's representative covering advertising and the amount of expenditures for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the code member may, and in the case where the coal was sold by a Sales Agent or Registered Wholesaler or Registered Farmers' Cooperative Organization of the code member, such Sales Agent or Registered Wholesaler or Registered Farmers' Cooperative Organization with the approval of the code member may sell the same at the best obtainable price; provided, that in each case the code member, the Sales Agent, the Registered Wholesaler or the Registered Farmers' Cooperative Organization shall before making such resale first notify the statistical bureau and afford a reasonable opportunity to make inspection of such coal before the resale; and provided further, that in each case the code member shall file with the statistical bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale and that in making such resale, the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All code members and all Registered Wholesalers and Registered Farmers' Cooperative Organizations shall promptly furnish to the statistical bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such statistical bureau.

5. No allowance shall be made for any shipment of coal of substandard preparation or quality unless formal claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of allowance and reasons for the claim is filed with the code member or Sales Agent or Registered Wholesaler or Registered Farmers' Cooperative Organization within five (5) days after the receipt of the coal and unless, before the coal on which such allowance is claimed is used or disposed of, reasonable opportunity is afforded the Coal Commission through its duly designated representative to make inspection of such coal.

The code member, Sales Agent, Registered Wholesaler or Registered Farmers' Cooperative Organization with whom such claim for allowance is filed shall immediately notify the statistical bureau and the District Board, furnishing an authentic copy of the buyer's claim together with a statement of the producers views as to the validity of the claim.

No allowance or adjustment for such inferior coal shall be made or deducted from the sales price by the code member, Sales Agent, Registered Wholesaler or Registered Farmers' Cooperative Organization without first receiving authorization therefor from the duly designated representative of the Coal Commission.

Within five (5) days from the date of granting any such allowance as approved by the representative of the Commission the code member, Sales Agent, Registered Wholesaler or Registered Farmers' Cooperative Organization shall file formal report with the statistical bureau setting forth:

A. The name and address of the consignee and the reason for the allowance.
B. The amount of allowance or adjustment made.
C. A statement that the adjustment has not been made with the purpose or intent of evading the price or fair trade practice provisions of the Act.

6. The screening of mine run or re-screening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at the market value of the coal but in no event at less than the minimum price therefor, established by the Coal Commission.

8. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required or the party so filing, to the penalties of the Act and other penalties imposed by law.

9. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

[F. R. Doc. 37-3625; Filed, December 11, 1937; 12:29 p. m.]

[Order No. 120]

AN ORDER DETERMINING AND ESTABLISHING INITIAL CLASSIFICATIONS OF COALS OF CODE MEMBERS WITHIN DISTRICT NUMBER 22 AS PROVIDED BY COMMISSION'S ORDERS NO. 38 AND NO. 43, AND SECTION 4, PART II, SUBSECTION (A) OF THE BITUMINOUS COAL ACT OF 1937

The National Bituminous Coal Commission having by its Orders No. 38 and No. 43[1] directed all District Boards to propose to the Commission initial classifications of coals of code members within their respective districts in conformity with the standards, methods of applying such standards, and rules of procedure prescribed by the Commission in said orders; the Bituminous Coal Producers Board for District Number 22 having proposed to the Commission initial classifications of coals of code members and a hearing having been held thereon; and Bituminous Coal Producers Board for District Number 22 having submitted evidence at such hearing showing compliance with the standards of classifications of coals, methods of applying such standards, and rules of procedure, as prescribed by the Commission in its Orders No. 38 and No. 43; and, the Commission having given due consideration to the proposed initial classifications of coals by Bituminous Coal Producers Board for District Number 22 and to other evidence and pertinent data relating to the classifications of coals for District Number 22:

Now, therefore, pursuant to Act of Congress, entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the classifications of coals of code members for District Number 22, set out preceding the names of code members and their respective mines as the same appear in the Schedule of Initial Classifications of Coals of Code Members within District Number 22, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, shall be and hereby are determined and established as the initial classifications of coals for code members within the said District Number 22 and such classifications shall be effective until further order of this Commission.

2. That all proceedings for reclassifications of coals shall be made and conducted in conformity with the provisions of Order No. 38, as amended by Order No. 43, and all proceedings for additional initial classifications shall be had in conformity with orders now in effect or hereafter issued.

3. That nothing herein contained shall affect any proceeding now pending before District Board Number 22 or the Commission involving a revision of the initial classifications of coals of any code member.

That the Secretary of the Commission shall forthwith mail copies of this order and Schedule of Initial Classifications of Coals for Code Members within District Number 22 to the Consumers' Council, the Secretary of Bituminous Coal Producers Board for District Number 22 and to code members within said district, and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 11th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3637; Filed, December 13, 1937; 12:47 p. m.]

[1] 2 F. R. 1688, 2149 (DI).

[Order No. 121]

AN ORDER SUSPENDING, UNTIL FURTHER ORDER OF THE COMMISSION, THE OPERATION OF RULE 4 OF SECTION TEN OF MARKETING RULES AND REGULATIONS RELATING TO THE SALE OF CRUSHED AND PULVERIZED COAL BY CODE MEMBERS WITHIN DISTRICTS NUMBERS ONE TO FOURTEEN INCLUSIVE, AND PROVIDING FOR A HEARING BY THE COMMISSION FOR THE PURPOSE OF RECEIVING FURTHER EVIDENCE TO ASSIST THE COMMISSION IN DETERMINING WHETHER OR NOT SAID RULES SHOULD BE MODIFIED OR ABROGATED

The National Bituminous Coal Commission having by its Orders Nos. 88 and 119,[1] established marketing Rules and Regulations, incidental to the sale and distribution of coals of Code Members within Districts Nos. 1 to 14, inclusive, and the Commission having determined that Rule 4 of Section Ten, relating to the sale of crushed and pulverized coal by Code Members within Districts Numbers 1 to 14, inclusive, should be suspended until further order of the Commission,

Now therefore, the National Bituminous Coal Commission, pursuant to the provisions of the Bituminous Coal Act of 1937, hereby orders:

1. That Rule 4 of Section Ten of the Marketing Rules and Regulations, incidental to the sale and distribution of coals of Code Members within Districts Nos. 1 to 14, inclusive, relating to the crushing and pulverizing of coal, be and the same is hereby suspended and declared to be inoperative until further order of the Commission.

2. That a hearing shall be held by the Commission on the 17th day of January, 1938, commencing at 10:00 o'clock A. M., in the Hearing Room of the Commission in Washington, D. C., for the purpose of receiving further evidence to assist the Commission in determining whether or not Rule 4 of Section Ten of Marketing Rules and Regulations relating to the sale and distribution of crushed and pulverized coal by code members within Districts Nos. 1 to 14, inclusive, should be modified or abrogated.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of Bituminous Coal Producers' Boards for Districts Nos. 1 to 14, inclusive, and to all Code Members within said Districts ,and shall cause a copy to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 11th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3638; Filed, December 13, 1937; 12:47 p. m.]

[Order No. 122]

AN ORDER SUSPENDING UNTIL FURTHER ORDER OF THE COMMISSION THE OPERATION OF RULE 4 OF SECTION FIVE PERTAINING TO COMMISSIONS OR DISCOUNTS ON LOCOMOTIVE FUEL AND PROVIDING FOR A HEARING FOR THE PURPOSE OF RECEIVING FURTHER EVIDENCE TO ASSIST THE COMMISSION IN DETERMINING WHETHER SAID RULE SHOULD BE MODIFIED OR ABROGATED

The National Bituminous Coal Commission having by its Orders Nos. 88 and 119[1] established Marketing Rules and Regulations, incidental to the sale and distribution of coals of Code Members within Districts Nos. 1 to 14, inclusive, and the Commission having determined that Rule 4 of Section Five should be suspended until further order of the Commission,

Now, therefore, the National Bituminous Coal Commission, pursuant to the provisions of the Bituminous Coal Act of 1937, hereby orders:

1. That Rule 4 of Section Five of Marketing Rules and Regulations incidental to the sale and distribution of coals

[1] 2 F. R. 2972, 3232 (DI).

of Code Members within Districts Nos. 1 to 14, inclusive, and reading as follows:

"No commission shall be paid or discount allowed by a Code Member on any coal sold for locomotive fuel purposes,"

be and the same is hereby suspended and declared to be inoperative until further order of the Commission.

2. That a hearing shall be held by the Commission on the 20th day of January, 1938, commencing at 10:00 o'clock A. M., in the Hearing Room of the Commission in Washington, D. C., for the purpose of receiving further evidence to assist the Commission in determining whether or not Rule 4 of Section Five of Marketing Rules and Regulations relating to discounts to be allowed on coal sold for locomotive fuel purposes by code members within Districts Nos. 1 to 14, inclusive, should be modified or abrogated.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of Bituminous Coal Producers' Boards for Districts Nos. 1 to 14, inclusive, and to all Code Members within said Districts, and shall cause a copy to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 11th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3639; Filed, December 13, 1937; 12:48 p. m.]

[Order No. 123]

AN ORDER PROVIDING FOR A HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE TO ASSIST THE COMMISSION IN ESTABLISHING REGULATIONS GOVERNING THE BUSINESS AND OPERATIONS OF MARKETING AGENCIES AND PRESENTING TERMS FOR THE APPROVAL OF SUCH AGENCIES BY THE COMMISSION PURSUANT TO THE BITUMINOUS COAL ACT OF 1937

The National Bituminous Coal Commission, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, hereby orders and directs:

1. That on January 17, 1938, commencing at the hour of ten o'clock A. M., in the Hearing Room of the Commission in the City of Washington, D. C., a hearing will be held for the purpose of receiving evidence to assist the Commission in prescribing reasonable regulations for the protection of the public interest governing the business and operations of marketing agencies and prescribing the terms and conditions upon which the Commission will thereafter grant its approval of such agencies, as authorized and provided in Section 12 of said Act.

2. The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to each marketing agency which the Commission has heretofore provisionally approved, and to the Secretary of each District Board, and shall likewise cause to be published a copy of this order in a newspaper of general circulation in each of the Districts Numbers One to Twenty-three, both inclusive, publication to be for one day in said newspapers and at least fifteen (15) days prior to the date of said hearing; and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 11th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3640; Filed, December 13, 1937; 12:48 p. m.]

[Order No. 124]

AN ORDER RELATING TO PURCHASES OF COAL FOR HOUSEHOLD CONSUMPTION BY MINE EMPLOYEES

The National Bituminous Coal Commission having ascertained, after investigation, that the mine workers employed by coal companies under collective bargaining contracts covering wages, hours of labor and working conditions have agreements with employers as to the price they shall pay for household coal used in their homes; and that such agreements are in fact a part of their working agreements and the price so agreed upon a part of the consideration going to the employee for his labor;

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby declares, directs and orders:

1. That the minimum prices of coals established by the Commission shall not be applicable to sales of coal made by a coal producer employer to his or its mine worker employees for household consumption, where such sale is made pursuant to any arrangement by which the reduction to such employee in the prices of coal below the minimum prices, constitutes part of the employees compensation for his labor.

2. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretary of all the Bituminous Coal Producers Boards and to all code members, and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 11th day of December, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3641; Filed, December 13, 1937; 12:49 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Entomology and Plant Quarantine.

Revision of Regulation 2. Effective December 11, 1937.

MODIFICATION OF COTTON REGULATIONS

AMENDMENT NO. 3 OF RULES AND REGULATIONS GOVERNING THE IMPORTATION OF COTTON AND COTTON WRAPPINGS INTO THE UNITED STATES

Under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, it is ordered that regulation 2 of the Rules and Regulations Governing the Importation of Cotton and Cotton Wrappings into the United States, as revised February 24, 1923, be, and the same is hereby, amended to read as follows:

Regulation 2. Applications for Permits

Persons contemplating the importation of cotton into the United States shall make application for a permit to the Secretary of Agriculture, Washington, D. C., in advance of shipment, on forms provided for that purpose.

Permits will authorize the entry of cotton at the ports of Boston, Providence, New York, Seattle, Portland, Oreg., San Francisco, and Los Angeles, and at such other ports of entry as may be approved by the Bureau of Entomology and Plant Quarantine:[1] *Provided,* That for cotton of the types not requiring disinfection as a condition of entry under the *proviso to Regulation 6,* as modified effective May 1, 1924, and under the two *provisos to Regulation 9,* and for second-hand burlap and other fabric of the kinds ordinarily used for wrapping cotton for which disinfection or approved equivalent treatment is not required under the *second proviso to Regulation 11,* permits will be issued for entry at the following additional ports: Philadelphia, Baltimore, Norfolk, Charleston, Savannah, Mobile, Gulfport, Miss., New Orleans, Houston, Galveston, Beaumont, Port Arthur, Niagara Falls, Buffalo, Port Huron, Detroit, Chicago, and Sumas, Blaine, and Bellingham, Wash.: *Provided further,* That for second-hand burlap or other fabric of the kinds ordinarily used for wrapping cotton which is to be treated under conditions prescribed

[1] The Bureau of Entomology and Plant Quarantine has assumed the functions of the Federal Horticultural Board.

by the Bureau of Entomology and Plant Quarantine in a manner equivalent to disinfection under the *first proviso to Regulation 11*, permits will be issued for entry at the additional ports of Philadelphia, Baltimore, Niagara Falls, Buffalo, Port Huron, Detroit, and Chicago.

Permits to authorize the entry of cotton via the United States for shipment to a foreign country will be issued under the provisions of the Plant Safeguard Regulations for immediate exportation or for immediate transportation and exportation in bond as prescribed in the permit: *Provided*, That cotton which has been entered in bond for subsequent disinfection may be exported from the United States upon prior approval of, and under conditions to be prescribed by, the Bureau of Entomology and Plant Quarantine.

(*a*) If cotton falling under these regulations is offered for entry at a port where the entry requirements cannot be met, provision must be made either for its prompt transfer to a port where the requirements of entry can be met, or for its removal forthwith from the port and the territorial waters of the United States. Transfers to other ports for compliance with the regulations, and the routing thereto, must be authorized by the Bureau of Entomology and Plant Quarantine.

(*b*) Under postal restrictions, the importation is authorized by samples, small packets, and parcel post of samples of raw or unmanufactured ginned cotton, including all forms of cotton-mill waste, when the parcels are securely wrapped to prevent leakage, and are conspicuously addressed to the United States Department of Agriculture, Bureau of Entomology and Plant Quarantine, at Washington, D. C., San Francisco, Calif., or Seattle, Wash., and, if from Mexico, at Nogales, Ariz., El Paso, Laredo, or Brownsville, Tex., with the name and address of the ultimate addressee indicated in the lower left-hand corner of the wrapper of the parcel. Upon receipt of the parcels at the designated inspection offices of the Bureau of Entomology and Plant Quarantine, they will be examined and disinfected, and forwarded to the ultimate addressee.

This amendment shall be effective on and after December 11, 1937.

Done at the city of Washington this 11th day of December 1937.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3624; Filed, December 11, 1937; 12:07 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

NORTH DAKOTA

DECEMBER 11, 1937.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the North Dakota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Barnes, Bowman, Ramsey.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3627; Filed, December 11, 1937; 12:44 p. m.]

DESIGNATION OF COUNTIES

TEXAS

DECEMBER 11, 1937.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Texas State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Baylor, Bexar, Bowie, Cherokee, Dallas, DeWitt, Falls, Fayette, Haskell, Hidalgo, Houston, Hunt, Johnson, Jones, Lamar, Navarro, Nueces, Reeves, San Augustine, Tom Green, Van Zandt, Wharton.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3626; Filed, December 11, 1937; 12:44 p. m.]

DESIGNATION OF COUNTIES

MISSOURI

DECEMBER 11, 1937.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Missouri State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Bates, De Kalb, Howard, Newton, Pemiscot, St. Charles, Shelby, Texas.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3636; Filed, December 13, 1937; 12:40 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

EXEMPTION FROM RADIO REQUIREMENT FOR SMALL PASSENGER VESSELS ENGAGED IN FISHING IN THE VICINITY OF MIAMI, FLORIDA

The Commission en banc, at a meeting held on November 27, 1937, adopted the following Order:

Whereas there are pending before the Commission certain applications for exemption from the provisions of Title III, Part II, of the Communications Act of 1934, as amended by Public No. 97, which applications were filed on behalf of various passenger vessels of less than 100 gross tons operating in the vicinity of Miami, Florida; and

Whereas the Commission on September 28, 1937, granted temporary exemption from the said requirements to this class of vessels for a period ending November 28, 1937, pending further determination in the matter; and

Whereas, after further investigation, it now appears that the route and conditions of the voyages and other circumstances are such as to render a radio installation unreasonable or unnecessary for the purpose of Part II, Title III of the Communications Act of 1934, as amended;

It is ordered, That the passenger vessels *Camrade II*, *Edith*, *Alice B*, *Seven Seas*, *Beatrice* and *Captain Bill;* when navigated not more than five miles from the Florida seacoast in waters lying between Hillsboro Light and Triumph Reef Beacon are exempt from compliance with Title III, Part II of the Communications Act, as amended, for a period of one year from the date of this Order; and

It is further ordered, That any other passenger vessels of less than 100 gross tons, when navigated not more than five miles from the Florida seacoast in waters lying between Hillsboro Light and Triumph Reef Beacon, shall be exempt from compliance with Title III, Part II of the Communications Act for a period ending one year from the date of this Order, the said period to begin with the date of filing of a written request for said exemption, under oath and in tripli-

cate, with the Inspector in Charge, Room 312, New Federal Building, (Post Office Box 150) Miami, Florida, which request shall include the following information:

Name of owner or applicant.
Name of vessel.
Official number.
Gross tonnage.
Required crew.
Permitted number of passengers.
Trade.
Maximum distance navigated from land.
Route the vessel normally follows and the number of passengers normally carried on this (these) route(s).
Period of day in which vessel is operated.
Reason in detail for requesting exemption.

Provided, however, That the foregoing exemptions shall be specifically subject to such rules and regulations as the Commission may hereafter adopt with regard to the granting of applications without hearing and, with respect to any ship or ships not specifically named herein, shall furthermore be subject to suspension or cancellation without notice or hearing within sixty days from the date of filing request for exemption as specified above.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 37-3611; Filed, December 11, 1937; 10:21 a. m.]

[Order No. 21]

COMMISSIONER WALKER ASSIGNED TO SUPERVISE COMPLETION OF REPORT ON INVESTIGATION AUTHORIZED BY CONGRESS

The Commission en banc, at a meeting held on October 13, 1937, adopted the following Order:

Effective upon the dissolution of the Telephone Division pursuant to Commission Order No. 20,[1] Commissioner Walker is hereby directed to supervise the completion of the proposed report on the investigation authorized by Public Joint Resolution No. 8, 74th Congress, approved March 15, 1935, and to submit such reports with a recommendation to the Commission at the earliest possible date.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 37-3612; Filed, December 11, 1937; 10:21 a. m.]

[Order No. 28]

ASSIGNMENT OF COMMISSIONERS AND CERTAIN STAFF MEMBERS TO ACT ON VARIOUS CLASSES OF APPLICATIONS

The Commission en banc, at a meeting held on November 29, 1937, adopted the following Order:

Under the authority of the Communications Act of 1934, as amended, particularly Sections 5 (e) and 409 thereof,

It is ordered:

(1) That the Secretary of the Federal Communications Commission is hereby authorized to determine, order, certify, report or otherwise act, with the advice of the General Counsel and the Chief Engineer, upon:

(*a*) all applications for operator licenses, and
(*b*) all applications for amateur and ship stations;

(2) That the Chief Engineer of the Federal Communications Commission is hereby authorized to determine upon all applications and requests, and to make appropriate order in letter form for the signature of the Secretary in the following matters:

(*a*) operation without an approved frequency monitor;
(*b*) operation without an approved modulation monitor;
(*c*) operation without thermometer in automatic temperature control chamber;
(*d*) operation without antenna ammeter, plate voltmeter or plate ammeter;
(*e*) operation with substitute ammeter, plate voltmeter or plate ammeter;
(*f*) operation with temporary antenna system;
(*g*) operation with auxiliary transmitter as main transmitter;
(*h*) operation with new or modified equipment pending repair of existing equipment, or pending receipt and action upon a formal application;
(*i*) where formal application is not required, application for new or modified equipment or antenna system;
(*j*) where formal application is not required, change of specifications for painting and lighting of antenna towers;
(*k*) operation to determine power by direct method during program test periods;
(*l*) relocation of transmitter in the same building;
(*m*) operation with reduced power or time under Rules 142 and 151;
(*n*) approval of types of equipment;
(*o*) where it appears that terms of construction permit have been compiled with, authorization for equipment and program tests or extensions thereof;
(*p*) denial of requests for equipment and program tests where specifications of construction permit have not been met;
(*q*) withdrawal of authorizations for equipment and program tests where subsequent to the issuance of the original authorization it appears that the terms of the construction permit have not been met;

(3) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all applications for aeronautical, aircraft, geophysical, motion picture, airport, aeronautical point to point, municipal and state police, marine relay, marine fire, and emergency and special emergency radio facilities;

(4) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all applications for licenses following construction which comply with the construction permit; applications for extensions of time within which to commence and complete construction; applications for construction permit and modification of construction permit involving only a change in equipment; applications to install frequency control; applications relating to auxiliary equipment; applications for authority to determine operating power of broadcast stations by direct measurement of antenna power; applications for special temporary authorization; applications for modification of licenses involving only change of the name of the licensee, where the ownership or control is not affected; applications for construction permit or modification of license involving relocation locally of a studio, control point or transmitter site; and applications for relay broadcast stations;

(5) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all radio matters of every character (except broadcast, operator licenses and amateur and ship stations) within the territory of Alaska;

(6) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all uncontested proceedings involved in the issuance of certificates of convenience and necessity; and the authorization of temporary or emergency wire service, as provided in Section 214 of the Act;

(7) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to determine and act upon all matters arising in connection with the administration of tariff circulars of the Commission adopted pursuant to Section 203 of the Act, including the waiver of notice for the filing of tariffs; and

[1] 2 F. R. 2672 (DI).

(8) That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all matters arising under the Rules of Practice and Procedure of the Commission relating to withdrawals, dismissals, or defaults of applications or other proceedings, subject to the statutory right of appeal to the Commission; and to hear and determine all interlocutory motions, pleadings and related matters of procedure before the Commission.

This Order shall become effective December 1, 1937.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 37-3613; Filed, December 11, 1937; 10:21 a. m.]

[Order No. 29]

ASSIGNMENT OF INDIVIDUAL COMMISSIONERS TO CARRY OUT PROVISIONS OF GENERAL ORDER No. 28

The Commission en banc, at a meeting held on November 29, 1937, adopted the following Order:

(1) Order No. 27 assigning to Commissioners Sykes and Brown authority to act upon certain emergency applications is hereby revoked.

(2) For the month of December, 1937, the work, business and functions of the Commission specified and described in Paragraphs (3) through (8), both inclusive, of Order No. 28, are hereby assigned and referred as follows:

(*a*) That in Paragraph (3) to Commissioner Payne;
(*b*) That in Paragraph (4) to Commissioner Craven;
(*c*) That in Paragraph (5) to Commisisoner Sykes;
(*d*) That in Paragraph (6) to Commissioner Brown;
(*e*) That in Paragraph (7) to Commissioner Walker;
(*f*) That in Paragraph (8) to Commissioner Case.

This Order shall become effective December 1, 1937.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 37-3614; Filed, December 11, 1937; 10:22 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. 123]

NOTICE: FIFTEEN PER CENT CASE, 1937

DECEMBER 9, 1937.

The above-entitled proceeding is assigned for hearing on the dates and at the places hereinafter designated:

At Washington, D. C., before Commissioner Porter, January 4, 1938, at the offices of the Commission, as to Eastern passenger fares in coaches.

At Atlanta, Georgia, before Commissioner Caskie, January 10, 1938, at the Atlanta-Biltmore Hotel.

At Los Angeles, California, before Commissioner Aitchison, January 11, 1938, at the offices of the Railway Commission of the State of California, State Building, North Broadway, near Front Street.

At Portland, Oregon, before Commissioner Porter, January 11, 1938, at the Multnomah County Court House.

At Salt Lake City, Utah, before Commissioners Aitchison and Porter, January 17, 1938, at the Hotel Utah.

At New Orleans, Louisiana, before Commissioner Caskie, January 17, 1938, at the Hotel Jung.

At El Paso, Texas, before Commissioner Splawn, January 25, 1938, at the Hotel Paso del Norte.

At Chicago, Illinois, before Commissioners Aitchison and Porter, January 25, 1938, at the Hotel Morrison.

At Washington, D. C., before Commissioner Caskie, January 25, 1938, at the offices of the Commission.

At Washington, D. C., before Division 7, February 7, 1938, at the offices of the Commission.

All hearings scheduled to begin at 10:00 o'clock A. M. (Standard Time).

It is expected that oral argument before the Commission will follow the conclusion of testimony, *at once;* briefs (or memoranda) conforming to the rules of practice may be filed within 10 days after oral argument.

Attention is directed to the appendix annexed, containing instructions to parties who may appear herein.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

APPENDIX

Exhibits.—In the preparation of exhibits Rule XIII of the rules of practice should be followed. A copy of that rule is attached. If possible, all documents submitted by a witness should be embraced in a single exhibit, with pages consecutively numbered, suitably bound together. In order to supply the State Commissioners, members of this Commission, and counsel in the proceeding, at least 150 copies of each exhibit should be prepared. So far as possible exhibits should be made self-explanatory in order to minimize the amount of time required for explanation by oral testimony.

Prepared statements.—Witnesses who expect in the course of their testimony to read a written statement should have sufficient copies thereof for the use of counsel, the Commissioners on the bench, and the official reporter.

Verified statements (affidavits).—Evidence in the form of verified statements (affidavits) without personal appearance of the affiant as a witness will also be received by consent of counsel. As soon as practicable parties desiring to offer such statements shall send 10 copies to the Commission and 75 copies to Mr. R. V. Fletcher, counsel for the applicants, Transportation Bldg., Washington, D. C. Within 10 days from receipt, Mr. Fletcher will advise the party submitting the statement and the Commission whether there is objection to the receipt of such statement in evidence. Copies must also be furnished to other interested parties who request them. Such statements should conform to Rule XIII of the rules of practice in respect of style, mimeographing, printing, etc. *They should be limited strictly to statements of fact and contain no argument, and if not so limited may be excluded.* The Commission on its own motion or on objection may exclude a verified statement or any portion thereof which is not material or relevant to the questions presented in this proceeding, is obviously incompetent, or is argumentative in character. The consent to introduction of such a verified statement will make it unnecessary for the affiant to appear personally at the hearing.

Notice of intention to produce testimony.—Persons who desire to be heard at any of these hearings will facilitate the arrangements necessary by sending notice of their intention, the number of witnesses, and the approximate amount of time necessary for presentation of direct testimony.

Correspondence.—Correspondence relative to this matter should be addressed to the Commission at Washington, D. C., with a reference to the docket number, Ex Parte No. 123.

RULE XIII, RULES OF PRACTICE (IN PART)

(*c*) 1. [*Tariffs; offer of matter contained in schedules.*]—In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff schedules so on file.

2. [*Reference in exhibits to tariff authority, routes, and distances.*]—All exhibits showing rates, fares, charges, or other tariff provisions must, by appropriate Interstate Commerce Commission number reference, indicate the tariff authority therefor, and if distances are shown must also show the authority therefor and, by lines and junction points, the routes over which the distances are computed;

except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff schedule lawfully on file with the Commission, or are definitely ascertainable from a tariff schedule on file with the Commission showing rates prescribed by the Commission and based on short line distances, provided the exhibit makes specific reference to such tariff schedules as provided by this rule.

(d) [*Copies of exhibits furnished opposing counsel.*]—When exhibits of a documentary character are to be offered in evidence copies must be furnished to opposing counsel, unless the presiding Commissioner or Examiner otherwise directs. Whenever practicable, the parties should interchange copies of exhibits before or at the commencement of the hearing.

(e) [*Size, form, and identification of exhibits; relevancy, materiality; not argumentative.*]—All exhibits of a documentary character received in evidence are bound with the rest of the record in covers of uniform size. Whenever practicable they should be on one side only of sheets not exceeding 12½ inches from top to bottom by 22 inches in width, and a sufficient margin for binding, preferably 1½ inches, must be left blank on the left side of each sheet. They must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed or typewritten. If typewritten they must in other respects conform to the requirements of Rule XXI (b). Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered, and, if the exhibit consists of five or more sheets, the first sheet or title-page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained in the exhibit and should bear an identifying number, letter, or short title which will readily distinguish the exhibit from the other exhibits of the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Exhibits should be limited to statements of fact relevant and material to the issue, which can be shown in that form better than by oral testimony. They should not be argumentative.

[F. R. Doc. 37-3635; Filed, December 13, 1937; 12:39 p. m.]

[Ex Parte No. 123]

FIFTEEN PERCENT CASE, 1937

REVISED SCHEDULE—SUPERSEDING PREVIOUS NOTICES

DECEMBER 11, 1937.

The above-entitled proceeding is assigned for hearing on the dates and at the places hereinafter designated:

At Washington, D. C., before Commissioner Porter, December 23, 1937, at the offices of the Commission, as to Eastern passenger fares in coaches.

At Atlanta, Georgia, before Commissioner Caskie, January 6, 1938, at the Atlanta-Biltmore Hotel.

At El Paso, Texas, before Commissioner Splawn, January 6, 1938, at the Hotel Paso Del Norte.

At New Orleans, Louisiana, before Commissioner Caskie, January 10, 1938, at the Hotel Jung.

At Los Angeles, California, before Commissioner Aitchison, January 10, 1938, at the offices of the Railroad Commission of the State of California, State Building, North Broadway, near Front Street.

At Chicago, Illinois, before Commissioner Porter, January 10, 1938, at the Hotel Morrison.

At Salt Lake City, Utah, before Commissioner Lee, January 10, 1938, at the Hotel Utah.

At Portland, Oregon, before Commissioner Lee, January 17, 1938, at the Multnomah County Court House.

At Washington, D. C., before Division 7, January 17, 1938, at the offices of the Commission.

All hearings scheduled to begin at 10:00 o'clock A. M. (Standard Time).

The hearing last scheduled to continue until the taking of testimony is closed, whereupon oral argument before the Commission will commence immediately. Briefs (or memoranda), if any, to be served and filed by the conclusion of oral argument.

Rules announced in the appendix attached to former notice should be observed.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37-3645; Filed, December 13, 1937; 12:54 p. m.]

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 7th day of December, A. D. 1937.

ORDER IN THE MATTER OF ANNUAL REPORTS FROM EXPRESS COMPANIES

The subject of the requirement of annual reports from express companies being under consideration:

It is ordered:

1. That the order of this Commission dated December 12, 1936,[1] In the Matter of Annual Reports from Express Companies, is hereby annulled.

2. That all express companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form H (Express), which is hereby approved and made a part of this order.

It is further ordered, That the annual report shall be filed in duplicate in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37-3644; Filed, December 13, 1937; 12:53 p. m.]

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 6th day of December, A. D. 1937.

ORDER IN THE MATTER OF ANNUAL REPORTS FROM SWITCHING AND TERMINAL COMPANIES OF CLASS III

The subject of the requirement of annual reports from switching and terminal companies being under consideration:

It is ordered:

1. That the order of this Commission dated November 19, 1936,[2] In the Matter of Annual Reports from Switching and Terminal Companies of Class III, is hereby annulled.

2. That all switching and terminal companies of Class III subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form D (Small Switching and Terminal Companies), which is hereby approved and made a part of this order.

It is further ordered, That the annual report shall be filed in duplicate in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37-3643; Filed, December 13, 1937; 12:53 p. m.]

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[1] 1 F. R. 2155.
[2] 1 F. R. 2044.

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 7th day of December, A. D. 1937.

ORDER IN THE MATTER OF ANNUAL REPORTS FROM SLEEPING CAR COMPANIES

The subject of the requirement of annual reports from sleeping car companies being under consideration:

It is ordered:

1. That the order of this Commission dated November 10, 1936,[1] In the Matter of Annual Reports from Sleeping Car Companies, is hereby annulled.

2. That all carriers by sleeping car companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form I (Sleeping Car Companies), which is hereby approved and made a part of this order.

It is further ordered: That the annual report shall be filed in duplicate in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37-3642; Filed, December 13, 1937; 12:52 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 171]

ALLOCATION OF FUNDS FOR LOANS

DECEMBER 10, 1937.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Mississippi 8029 Oktibbeha	$326,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 37-3628; Filed, December 13, 1937; 9:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of December, A. D. 1937.

[File No. 32-76]

IN THE MATTER OF CENTRAL OHIO LIGHT & POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by Central Ohio Light & Power Company, a subsidiary of a registered holding company pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the issue and sale of 6% promissory notes in a total face amount of $93,215.60, which issuance and sale has been approved by the Ohio Public Utilities Commission;

It is ordered, That a hearing on such matter be held on December 28, 1937, at 10:00 o'clock in the forenoon of that day at Room 1101, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 23, 1937.

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3648; Filed, December 13, 1937; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of December, A. D. 1937.

[File No. 46-84]

IN THE MATTER OF CUMBERLAND COUNTY POWER AND LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Cumberland County Power and Light Company, a subsidiary of New England Public Service Company, which is a registered holding company, for approval of the acquisition from The Twin State Gas and Electric Company, a registered holding company and likewise a subsidiary of New England Public Service Company, of all the outstanding common capital stock, being 9,770 shares of $25 par value stock, and of $224,000 principal amount of First and Refunding Mortgage 5% Gold Bonds, of Berwick & Salmon Falls Electric Company, a subsidiary of The Twin State Gas and Electric Company, for an aggregate consideration of $499,000; said acquisition being a preliminary step in a plan by which Cumberland County Power and Light Company proposes to acquire all the property and assets of Berwick & Salmon Falls Electric Company;

It is ordered, That a hearing on such matter be held on December 30, 1937, at 2:00 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer. Upon the completion of the taking of testimony in this matter, the presiding officer is directed to make his report to the Commission.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party

[1] 1 F. R. 2009.

to such proceeding shall file a notice to that effect with the Commission on or before December 27, 1937.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3646; Filed, December 13, 1937; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of December, 1937.

[File No. 43-93]

IN THE MATTER OF NORTHERN STATES POWER COMPANY

ORDER PERMITTING DECLARATION FOR ISSUANCE AND SALE OF NOTES

Northern States Power Company, organized under the laws of Minnesota, having filed a declaration and amendment thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by it to a number of banks, in accordance with the terms of a bank agreement, of not to exceed $4,000,000 of 3% unsecured notes due October 1, 1939; a hearing on such declaration having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That such declaration be and become effective forthwith on condition that the issuance and sale of such notes shall be effected in compliance with the terms and conditions set forth in, and for the purposes represented by, such declaration.

It is further ordered, That, within ten days after the issue and sale of any of such notes, the declarant shall file with this Commission a Certificate of Notification showing that such issue and sale has been effected in accordance with the conditions of this Order, and incorporating a true copy of the notes with respect to which the Certificate is filed.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3647; Filed, December 13, 1937; 12:55 p. m.]

VETERANS ADMINISTRATION.

[Supplement No. 1 to Instructions of September 7, 1937]

INSTRUCTIONS GOVERNING THE SELECTION OF VETERANS TO COMPOSE THE VETERANS' CONTINGENT OF THE CIVILIAN CONSERVATION CORPS

STATE AND CORPS AREA QUOTAS FOR THE VETERANS' CONTINGENT OF THE CIVILIAN CONSERVATION CORPS

DECEMBER 6, 1937.

Effective as of January 1, 1938, the first sentence of Paragraph 1 (A) (b) of Instructions Governing the Selection of Veterans to Compose the Veterans' Contingent of the Civilian Conservation Corps released September 7, 1937,[2] is hereby amended to read as follows:

"Based upon the provisions of the Act quoted above the Director of the Corps has established the number of war veterans which may be enrolled at any one time in the Corps at 25,000."

Pursuant to this authority the following State and Corps Area quotas for the veterans' contingent of the Civilian Conservation Corps effective January 1, 1938, and to remain effective thereafter until subsequently modified, are hereby established, and all other such quotas previously announced are hereby cancelled.

Army Corps Area and Selecting Office	Territory from which selections are to be made	Basic quota
FIRST		
Newington, Conn.	Connecticut	250
Togus, Maine	Maine	120
Boston, Mass.	Massachusetts	805
Manchester, N. H.	New Hampshire	65
Providence, R. I.	Rhode Island	115
Burlington, Vt.	Vermont	45
		1,400
SECOND		
Philadelphia, Pa.	Delaware	30
Lyons, N. J.	New Jersey	670
New York City	Eastern New York	1,575
Batavia, N. Y.	Western New York	525
		2,800
THIRD		
Washington, D. C.	District of Columbia	100
Baltimore, Md.	Maryland	240
Philadelphia, Pa.	Eastern Pennsylvania	1,060
Pittsburgh, Pa.	Western Pennsylvania	700
Roanoke, Va.	Virginia	300
		2,400
FOURTH		
Tuscaloosa, Ala.	Alabama	560
Bay Pines, Fla.	Florida	470
Atlanta, Ga.	Georgia	635
New Orleans, La.	Louisiana	390
Jackson, Miss.	Mississippi	440
Charlotte, N. C.	North Carolina	575
Columbia, S. C.	South Carolina	440
Nashville, Tenn.	Tennessee	490
		4,000
FIFTH		
Indianapolis, Ind.	Indiana	535
Louisville, Ky.	Kentucky	450
Cleveland, Ohio	Northern Ohio	760
Dayton, Ohio	Southern Ohio	505
Huntington, W. Va.	West Virginia	350
		2,600
SIXTH		
Hines, Ill.	Illinois	1,600
Detroit, Mich.	Michigan	1,030
Wood, Wisc.	Wisconsin	570
		3,200
SEVENTH		
Little Rock, Ark.	Arkansas	490
Des Moines, Iowa	Iowa	500
Wichita, Kansas	Kansas	490
Minneapolis, Minn.	Minnesota	730
Jefferson Barracks, Mo.	Eastern Missouri	525
Kansas City, Mo.	Western Missouri	425
Lincoln, Nebr.	Nebraska	325
Fargo, N. D.	North Dakota	220
Sioux Falls, S. D.	South Dakota	295
		4,000
EIGHTH		
Tucson, Ariz.	Arizona	130
Denver, Colo.	Colorado	300
Albuquerque, N. M.	New Mexico	130
Oklahoma City, Okla.	Oklahoma	730
Dallas, Texas	Northern Texas	800
San Antonio, Texas	Southern Texas	660
Cheyenne, Wyo.	Wyoming	50
		2,800
NINTH		
San Francisco, Cal.	Northern California	455
Los Angeles, Cal.	Southern California	560
Boise, Idaho	Idaho	90
Ft. Harrison, Mont.	Montana	110
Reno, Nev.	Nevada	25
Portland, Ore.	Oregon	165
Salt Lake City, Utah	Utah	115
Seattle, Wash.	Washington	280
		1,800
Grand total		25,000

[SEAL] FRANK T. HINES, *Administrator.*

[F. R. Doc. 37-3605; Filed, December 10, 1937; 3:41 p. m.]

[1] 2 F. R. 2933 (DI).
[2] 2 F. R. 2174 (DI).

REVISION OF REGULATIONS

APPORTIONMENT OF DEATH PENSION OR COMPENSATION

Prior Apportionment Not To Be Disturbed

R–2591. (A) When apportioning death pension or death compensation the provisions of R. & P. R–2592 will be applicable to all cases coming within its purview in which payments of pension or compensation have not been made to dependents, for all periods affected both prior and subsequent to its effective date. If payments have been made pursuant to a prior apportionment regulation, such payments will not be disturbed retroactively, except as provided in subparagraph (B) hereof, but any adjustment made necessary by reason of R. & P. R–2592 will be made effective as of the first day of the month next succeeding that in which the changed award is approved. In those instances where apportioned awards have been made, but no payment to the dependents has been issued thereunder, pension or compensation will be apportioned under R. & P. R–2592 for all periods affected.

(B) If by reason of a retroactive increase in the total amount of pension or compensation payable, no overpayment would result from a retroactive apportionment under R. & P. R–2592, such apportionment will be made effective as of the commencement date of the prior apportionment or the date of the increase in the total amount payable, whichever is the later. (August 16, 1937.) (V. R. No. 6 (c)).

Widow and Children

R–2592. For the purposes of Public No. 2, 73d Congress (Act of March 20, 1933), Public No. 141, 73d Congress (Act of March 28, 1934), and Public No. 484, 73d Congress (Act of June 28, 1934) as amended, and Public No. 304, 75th Congress (Act of August 16, 1937), where the child or children of a deceased veteran are not in custody of the widow, apportionment of pension or death compensation will be as follows:

(A) (1) Where benefits are payable at the war-time rates under Veterans' Regulation No. 1 (g).

Amount payable to widow when—						
Age of widow is—	Age of oldest child is—		Amount for oldest child—When child is—		Amount for each additional child—When child is—	
	Under 10	10 or over	Under 10	10 or over	Under 10	10 or over
Under 50	$22.50	$25.00	$17.50	$20.00	$8.00	$13.00
50 but not 65	27.50	30.00	17.50	20.00	8.00	13.00
65 or over	32.50	35.00	17.50	20.00	8.00	13.00

(2) Where the full amount payable under Section 3 of Public No. 304, 75th Congress (Act of August 16, 1937) is awarded:

Amount payable to widow when—						
Age of widow is—	Age of oldest child is—		Amount for oldest child—When child is—		Amount for each additional child—When child is—	
	Under 10	10 or over	Under 10	10 or over	Under 10	10 or over
Under 50	$22.50	$25.00	$17.50	$20.00	$8.00	$13.00
50 but not 65	30.00	32.50	17.50	20.00	8.00	13.00
65 or over	37.50	40.00	17.50	20.00	8.00	13.00

(3) Where compensation is payable at the variable rates provided under R. & P. R–2582 (C) (2), the difference between the total amount of compensation payable thereunder and the total amount otherwise payable at war-time rates under Veterans Regulation No. 1 (g) will be added to the amount payable to the widow under the table prescribed in subparagraph (A) (1) of this paragraph with no change in the amounts provided in such table for the child or children.

(4) The maximum amount payable to the widow and children in a war-time case is $75 of which not more than $52.50 may be paid to the children; and in a peace-time case $56 of which not more than $39.50 may be paid to the children. The total amount for all children will be equally divided when all are under 10 or all are over 10. When there are children under 10 and over 10, apportionment will be made in conformity with the following tables:

War-time Rates—Veterans Regulation No. 1 (g), Paragraph 1, and Section 3, Public No. 304, 75th Congress

Widow under 50—$22.50 children	2 children amt. to each		3 children amt. to each		4 children amt. to each		5 children amt. to each		6 children amt. to each		7 children amt. to each	
	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10
1 over 10	12.75	17.75	11.17	16.16	10.38	15.36	9.53	14.38	8.05	12.25	6.97	10.68
2 over 10	-----	-----	11.16	16.17	10.38	15.37	8.74	13.14	7.45	11.35	6.50	10.00
3 over 10	-----	-----	-----	-----	9.66	14.28	8.05	12.13	6.94	10.56	6.10	9.36
4 over 10	-----	-----	-----	-----	-----	-----	7.46	11.26	6.49	9.88	5.74	8.82
5 over 10	-----	-----	-----	-----	-----	-----	-----	-----	6.10	9.28	5.42	8.33
6 over 10	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	5.15	7.89

(B) (1) Where benefits are payable at the peace-time rates under Veterans Regulation No. 1 (g).

Amount payable to widow when—						
Age of widow is—	Age of oldest child is—		Amount for oldest child—When child is—		Amount for each additional child—When child is—	
	Under 10	10 or over	Under 10	10 or over	Under 10	10 or over
Under 50	$16.50	$18.00	$12.50	$15.00	$6.00	$9.00
50 but not 65	20.50	22.00	12.50	15.00	6.00	9.00
65 or over	24.50	26.00	12.50	15.00	6.00	9.00

Peace-Time Rates—Veterans Regulation No. 1 (g), Paragraph 2

Widow under 50—$16.50 children	2 children amt. to each		3 children amt. to each		4 children amt. to each		5 children amt. to each		6 children amt. to each		7 children amt. to each	
	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10	Under 10	Over 10
1 over 10	9.25	13.25	8.17	12.16	7.62	11.64	7.12	11.02	6.02	9.40	5.21	8.24
2 over 10	-----	-----	8.17	[1]12.17	7.62	[1]11.63	6.63	[1]10.26	5.65	[1]8.85	4.93	[1]7.78
				11.16	-----	10.63	-----	9.35	-----	8.06	-----	7.07
3 over 10	-----	-----	-----	-----	7.43	[1]11.35	6.20	[1]9.60	5.33	[1]8.35	4.68	[1]7.38
						10.36	-----	8.75	-----	7.58	-----	6.70
4 over 10	-----	-----	-----	-----	-----	-----	5.82	[1]9.02	5.04	[1]7.88	4.45	[1]7.01
								8.22	-----	7.18	-----	6.33
5 over 10	-----	-----	-----	-----	-----	-----	-----	-----	4.78	[1]7.48	4.24	[1]6.70
										6.81	-----	6.08
6 over 10	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	4.05	[1]6.40
												5.81

[1] Amount for oldest child.

(C) The additional amounts payable to a war-time or peace-time widow at ages 50 and 65, under Veterans Regulation No. 1 (g) or Section 3, Public No. 304, 75th Congress, will be added to the amount apportioned to a widow under age 50.

(D) In those cases where there are no dependent parents and the amount payable by reason of the widow and children exceeds the maximum of $75 or $56, respectively, under subparagraphs (A) or (B), deductions necessary to bring the amount payable within the limitation of the regulation involved will be made first by reducing the amount to be paid to the widow to the rate shown where the oldest child is under ten, and then by reductions pro rata from the amount payable to the children.

(E) In apportioning pension or compensation for any period under Veterans Regulation No. 1 (g) where a widow and child or children and dependent parents, or children and dependent parents are involved, where the aggregate amount payable exceeds $75 or $56 under subparagraphs (A) (1) or

(B), reduction necessary to bring the amount within the limitation will be made pro rata from the amount otherwise payable to the parents; provided, however, that the reduction in the award to each parent shall be effected only as of the last day of the month in which the reduction or discontinuance is approved; provided, further, that the limitations of $75 or $56 may be exceeded in any case where protection in the rate payable is afforded by Section 20, Public No. 78, or Section 28, Public No. 141, 73d Congress (A. D. 243).

(F) When compensation is awarded to any person at the full rates provided in Section 3, Public No. 304, 75th Congress, or a portion thereof pursuant to R. & P. R-2582 (C) (2), and another person in the case is entitled to compensation at the rates provided in Veterans Regulation No. 1 (g), the amount of compensation awarded under Veterans Regulation No. 1 (g) will be that which would be authorized if the compensation paid to all persons in the case were awarded at the rates and under the limitations provided in Veterans Regulation No. 1 (g).

(G) Where benefits are payable under V. R. No. 1 (a), Part III, because of death not the result of service.

Widow	$11.00
Child	9.00
Each additional child	[1] 3.00

(H) Where benefits are payable under Public No. 484, 73d Congress (Act of June 28, 1934) as amended.

Widow	$17.00
Child	13.00
Each additional child	[1] 4.00

(I) Where benefits are payable under the Act of May 1, 1926, as reenacted by Section 30, Title III, Public No. 141, 73d Congress (Act of March 28, 1934).

Widow	$15.50
Child under 16	11.50
Each additional child	[1] 4.50

(J) Where benefits are payable under the General Law as reenacted by Section 30, Title III, Public No. 141, 73d Congress (Act of March 28, 1934), to the widow of a lieutenant colonel or officer of higher rank in the Army, or a captain or officer of higher rank in the Navy.

Widow	$14.00
Child under 16	10.00
Each additional child	[1] 1.50

(K) Where benefits are payable under the General Law as amended by Section 314 of the Act of October 6, 1917, reenacted by Section 30, Title III, Public No. 141, 73d Congress (Act of March 28, 1934), to the widows of officers of lesser rank, and of noncommissioned or warrant officers and enlisted men.

Widow	$11.75
Child under 16	8.50
Each additional child	[1] 1.50

[1] Total amount for children equally divided.

(L) The apportionment provided for in subparagraphs (I), (J) and (K) will not be applicable in any case in which the widow's title is shown to be forfeited to the veteran's child or children by reason of their abandonment by her or because of her having been shown to be an unsuitable person to have them in her custody. Section 4706, Revised Statutes.

(M) *Effective dates of apportionment.*—The effective date of the apportionment will be the first day of the month next succeeding that in which notice is received in the Veterans Administration that the child or children are not in the care and custody of the widow, provided that where prior to the initial award to the widow the lack of custody in the widow is shown, the compensation or pension will be apportioned in accordance with the facts found for all periods affected.

(N) *Special apportionments.*—In any case wherein it is clearly shown by competent evidence that the application of the foregoing provisions of these regulations or the fact that no apportionment is authorized under the provisions thereof will result in undue hardship upon the widow, children or dependent parents, and relief can be afforded without undue hardship to the other persons at interest, the complete case file will be forwarded through the director, dependents claims service, to the assistant administrator in charge of compensation and pensions, who will determine without regard to the foregoing provisions of these regulations the death pension or compensation which will be apportioned and the exact amount to be apportioned to each individual in interest. (V. R. No. 6 (c)). (September 16, 1936.)

(O) There can be no apportionment of a widow's pension under the laws reenacted by Public No. 269, 74th Congress (Act of August 13, 1935), except that the additional allowance for a child by a former marriage not in care and custody of the widow may be paid to the fiduciary of the child.

(P) *Discontinuance of apportionments, effective dates.*—In those cases where death pension or compensation is apportioned between the widow and child or children and payments have been or are being made to such dependents subsequent to the date of cessation of the condition on which it is predicated, the effective date of discontinuance of the apportioned benefit to the child or children shall be the date of last payment, and the award to the widow will be adjusted accordingly; except that in the event of death, the date of death; or the date preceding the sixteenth, eighteenth, or twenty-first birthday; or the date preceding the date of marriage; or in case of a child who discontinues a course of instruction, the last day of attendance; will be the effective date. (V. R. No. 6 (c)). (August 16, 1937.)

[SEAL] FRANK T. HINES, *Administrator.*

[F. R. Doc. 37-3606; Filed, December 10, 1937; 3:41 p. m.]